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Première session, 35e législature

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(Hansard)

Le jeudi 8 août 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

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Table des matières

La table des matières des séances rapportées dans c numéro se trouve à l'arrière de ce fascicule, ainsi qu'un liste des membres du comité et des autres députés ayan participé.

Il existe un index cumulatif des numéros précédents. Le renseignements qu'il contient sont à votre disposition pa téléphone auprès des employés de l'index du Journal de débats au (416) 325-7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 8 August 1991

The committee met at 1000 at the Senator Hotel, Sudbury.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: The standing committee is here to consider Bill 121, An Act to revise the Law related to Residential Rent Regulation, better known as the Rent Control Act.

The committee has planned to spend the entire day in the city of Sudbury to hear submissions from the general public and to that end we have a list of presenters for today.

UNITED TENANTS OF ONTARIO

The Chair: The first witness will be Rick Desormeaux, representing the United Tenants of Ontario. Rick, the committee has allotted you 15 minutes for your presentation. You can withhold some time for questions and answers, if you wish. I think you have been before us before and you understand the procedures we have used.

Mr Desormeaux: My name is Rick Desormeaux and I am one of the co-chairs of United Tenants of Ontario, UTOO. I am also here as one of the representatives for the north-central region on UTOO's provincial council and as the chair of the organization's administration and communication committee.

Making presentations has always been a learning experience for me, and this time has been no exception. The first thing that struck me as I was preparing this presentation was that as an individual who is rooming with his parents and sharing kitchen and bathroom facilities with them, I do not seem to be covered either by the Landlord and Tenant Act or by rent review legislation. If this is so, I want in. Personally, I do not have problems because my parents are very honest and tolerant landlords who will go out of their way to make sure my board is reasonable, but others who share facilities can get increases more than once a year. Why are they not in?

United Tenants of Ontario believes that virtually all of Ontario's tenants should be covered by rent review legislation. We believe buildings should be covered during the first five years of their lives.

There are three areas of rent review exemption which have particular resonance for me, and they are: (1) non-profit housing, except for non-profit co-op housing; (2) housing which is also covered by legislation like the Nursing Homes Act or the Homes for Special Care Act as well as the Landlord and Tenant Act; and (3) student housing provided by educational institutions. I am saying that consultation is not a substitute for real coverage. They can just tell you they are going to do something and that could be a consultation. I underline these three examples because I believe that both myself as an individual and UTOO as an organization need to champion those most vulnerable to exploitation and those who are least able to fight back when their rights are threatened.

Landlord presentations tend to take these hearings and make them into antipoverty affairs. It is true that a lot of people in economic poverty situations and, for that matter, a lot of people who are not in economic poverty situations, could use some subsidies to help them to be able to afford even the most reasonable rental levels. They are right, as far as that goes, but sound, affordable housing strategies are necessary no matter what kind of social assistance net is implemented.

In addition, although many landlords advocate government money as the answer to the housing problem, it is well known that many people in our society, including some landlords, discriminate against those whose income comes from the taxpayers already. Adding extra subsidies to people who already suffer social stigmas cannot be an entire answer.

Their presentations also tend to make the real issue the poverty of small- to medium-sized landlords. UTOO concedes the point that some landlords may be in economic difficulty and need extra protections beyond those afforded by rent review legislation, but we maintain that being a landlord is a business, and cushioning businesses from economic realities is not the purpose of such legislation. We also maintain that most landlords who have kept their buildings in good order throughout the years and have done regular maintenance should not be suffering under current rent review.

In conclusion, I want to make two points. The first point is that we are opposed to the two-track system, one for buildings under seven units and another for buildings of seven units or more. Since tenants who live in buildings of seven units or more do not make less than those who live in buildings of less than seven units, they should not be required to pay less.

The second point is that as a basic principle all rents should be registered with the provincial rent registry. Instead of making exemptions, if registration is a problem, ways can be found to facilitate the registration.

UTOO believes in including as many tenants as possible into the process of solution-finding and helping to do what needs to be done rather than finding ways to avoid sticky solutions unnecessarily. We believe in political courage. I am happy to answer any questions you may have as best I can. Thank you.

I have something here that I wrote as a poem a few months ago because I was sort of thinking about all the different times we are going to be meeting together in the

future. Probably next year it will be the purple paper, and we will talk about that. The way things are going there seems to be no end to the amount we are going to be talking about housing problems, but I am not sure how much we are actually going to do. I entitle it, "Yeah, Me Too (a Poem)."

We've got studies and commissions
Delegations and decisions
Things keep changing rapidly
But the landscape looks the same to me
Different colours for the papers
Wars declared and victories claimed
Darkness reigns but our side wins
At least we settle who's to blame
Keep going off in new directions
Images of sweet perfection
Final words and more revisions
Must make sure we have a vision
Can't begin to feed our hungry
Proper clothes or decent roofs
Boundary wars and good intentions
Hardly pass the needy proof
Speeches and investigations
Letters to the congregation
Divide the madmen from the sane
About the need to break the chain
We've got protests and petitions
Old beliefs and new precisions
Things keep changing drastically
The faces change but not this sea.

Mr Tilson: I detect a small amount of sarcasm in your poem.

Mr Desormeaux: Yes.

Mr Tilson: My question to you with respect to that is, do you have any recommendations as to how this government can cut down on bureaucracy in housing in the province?

Mr Desormeaux: I would look at it from a different way. We are getting these consultation papers and they are saying: "We can do this or we could that or maybe we could do this other thing. Tell us what you think about which one we should do." From my perspective, at this point I think we know all the different options that are on the floor and I would sort of like to hear the government make some statements about what it would like to do. Obviously, it must have some preferences among the choices it is throwing out and some things that it is leaning towards.

Mr Tilson: Its preference appears to be Bill 121. My second question is the whole subject of rent review or rent control. Do you believe that government should completely take over the housing industry and that no private enterprise should be in the housing industry?

Mr Desormeaux: I think we need more private enterprise in the housing industry, but I really do not think private industry is being endangered at this point. I think there are still a lot of private landlords and there is money to be made in that business.

Mr Tilson: Sir, I have not heard of any new apartment buildings being built in the province by private enterprise in the last two or three years. That tells me they are n interested any more and that they are getting out of it. V have landlord after landlord telling us they are trying sell their buildings and that there is such a loss that th are going to lose it through bankruptcy.

I guess that leads to my second question. You get in the housing industry. If you believe in private enterpris how should this government encourage private enterpris to stay in it and build more? You are going to take re controls off all new buildings. How are we going to e courage private enterprise to start building again in th province? They are not going to build any more. The have told us that.

1010

Mr Desormeaux: I do not have an answer for that a the present time. Let's put it this way. I have only bee involved in this organization for a couple of years, so I ar still in the learning process. It is something you have t work on.

The Chair: That is a fair answer.

Mr Mahoney: By the way, neither does the govern ment have an answer to that, so do not feel bad. They ar learning too.

Mr Abel: Just like you did in 1985.

The Chair: Order.

Mr Mahoney: It is nice to get everybody excited. You say in your presentation, "United Tenants believes that virtually all of Ontario's tenants should be covered by ren review legislation," and then you say, "We believe tha buildings should be covered during their first five years.' Are you saying they should be released after five years?

Mr Desormeaux: Bill 121 is saying they should not be covered by rent controls during the first five years.

Mr Mahoney: Oh, I see, so that is what you are responding to.

Mr Desormeaux: UTOO's position is that they should be covered by rent control for the first five years.

Mr Mahoney: In learning and trying to develop your position on the question Mr Tilson put to you, on the one hand you say everything should be covered, and on the other hand that we need more private enterprise in the housing field. Not to duplicate the question, but that is at cross purposes. How do you say to anybody in the private sector, "Come into this highly regulated industry where we are going to limit your increases completely"? Why would they do that?

Mr Desormeaux: First of all, I talked about four kinds of exemptions and three of them have nothing to do with—the one is the non-profit housing—

Mr Mahoney: When you say "private sector," do you mean private non-profit or are you talking about for-profit private sector?

Mr Desormeaux: First, I am saying they want the government and non-profit sector to be covered by rent review and that students should be covered by rent review, and they are talking about things like nursing homes and homes for the aged which would be covered by rent review.

Mr Mahoney: I am getting mixed messages from you. You are saying we maintain that being a landlord is a business, and cushioning business from economic realities is not the purpose of such legislation. It is the tenants who are being cushioned.

Mr Desormeaux: On the other hand, the last time I came to these meetings there were a lot of stories about how people got into the landlord business because they wanted to get a retirement for grandpa, or something like that. It was like an alternative to a pension plan, to get a building so that they would be covered. The landlords were kind of surprised to find out that they were in a tough business where there was a chance of making money and a chance of losing money.

Mr Mahoney: Welcome to the real world.

Mr Desormeaux: Welcome to the real world.

Ms Harrington: Thank you for coming. You have brought forward some interesting ideas here and I hope our staff are getting them all down. I wanted to briefly respond to your statement at the end. You said, "We believe in political courage." I would like to clarify the government's position on that type of commitment. I think you will recognize that most people across this province view the commitment and the courage of the minister, Dave Cooke, to bring this legislation forward so directly and dramatically, last November with Bill 4, and following through with that commitment as soon as we could, with this permanent legislation in June and trying to do the hearings and make sure what we have is a real, workable system in Ontario.

You touched on a couple of other things here; that is, the people whose rights should be protected, those people who cannot speak out for themselves for various reasons. That is why this government is so committed to rent control. We also want to empower people, the ordinary people, so they can deal with landlords. There has been a power imbalance and the tenants have had to take whatever was offered—I am not saying in all cases but in very many cases. That is what we are trying to do, to change the way the system works and to do it in a fair way, because we believe the owners of the buildings should make a fair profit in Ontario and we need that sector to be there. It is very important, so we have to deal with people honestly and correctly.

I believe Mr Mammoliti has a concern or question for you.

Mr Mammoliti: I just want to explain something to you, if you do not mind. Your concern earlier was that the five-year exemption of new buildings from rent control should not exist, that they should be covered under rent control. What we looked at as a government through our hearings in the past was exactly what Mr Tilson was saying. There was no incentive out there. The tenants are saying they should not be exempted. We tried to find a median, that median being a five-year exemption for the new buildings. Do you not think that medians sometimes are needed in this particular case to make both parties happy?

Mr Desormeaux: Compromise is always a difficult thing. It is really to make two sides happy. I do not know if there is a way to make everybody happy, because somebody is bound to feel he is not going to be as happy as the other people involved in the equation. I do recognize it is a very difficult situation.

1020

MUSKOKA LEGAL CLINIC

The Chair: The next presenter is Muskoka Legal Clinic. We will be following the same procedure, 15 minutes for your presentation and you can leave time for questions and answers.

Ms Campbell: Good morning. My name is Susan Campbell. With me is Jo-Anne Boulding. We are from the Muskoka Legal Clinic. The Muskoka Legal Clinic is a legal aid clinic that represents low-income people in the district of Muskoka. The district of Muskoka includes the towns of Gravenhurst, Bracebridge, Huntsville, Muskoka Lakes and Lake of Bays. It is bounded by Simcoe, Haliburton, Parry Sound and Nipissing.

As may be apparent to you, most of the tenants whom we represent live in one-, two- and three-unit buildings. In our first year of operation—we have only been open a little over a year—the majority of the work we have been involved in has been the Landlord and Tenant Act and rent review legislation. We felt it was important to come here today to talk to you to ensure that some of the views and problems faced by rural tenants be represented in this process.

We applaud the introduction of this badly needed new legislation. However, we are once again concerned that the legislation seems to be almost exclusively from the perspective of the problems of tenants in large urban centres. To give you a better idea of some of the people we represent in our area, we would like you to know that the income for most full-time residents in the district of Muskoka comes from part-time, seasonal and minimum-wage work. Though the rents may seem to be lower compared to large urban centres, in fact this is not so.

Most people, almost all tenants in the district, pay utilities on top of their rent—all utilities. They often pay deposits, large deposits, as in $200, for telephone hookups and as much as three months in advance on things like hydro bills and gas bills. They often get to pay extras like having the septic system pumped.

The demand for subsidized units is far, far greater than the supply in the area, so we have a large number of senior citizens, sole-support mothers and differently abled people relying on private market housing. Too often we deal with the debt problems that arise in tenancy situations and come from the large utility bills and other things people must pay on top of their rent. We intend to present to you today a few points of special interest to us on some of the issues that have come forward to us from the tenants we have served in the past year. We would like to reserve a few more comments that we will present to you later in a written brief.

The first item we would like to talk to you about today is the capital expenditure pass-throughs. Most of the tenants we have come in contact with believe capital expenditures should be passed through in order that they have some ability to push landlords into maintaining and repairing our homes. With such high heating costs, they are particularly

interested in improvements that increase energy efficiency in their homes. However, they are concerned with the fact that pass-throughs be necessary and that they stop paying for improvements once they have been paid for. Therefore, we make the following recommendations with regard to capital expenditures.

First, in terms of the costs no longer borne by the landlord, I cannot remember what section in the proposed bill this is in, but our recommendation is that the costs no longer borne by the landlord should be automatically removed after the expiry of the predicted expected lifetime of the work. It is not sufficient to remove these when a landlord makes a subsequent application for the same expenditure. There are too many instances where the improvements are not done a second time, or where the building has changed hands and the new landlord does not make the same kind of repairs, may not make any repairs, but still manages to reap the benefit of the costs of that improvement if no subsequent application is made.

Second, with respect to Bill 4, tenants were led to believe that, at least until the passage of the new legislation, capital expenditures were not going to be passed through in their rents. This would be a great blow to tenants in that Bill 121 allows for any capital expenditures to be passed through until June 1991. Unless you are planning an inordinate delay in the passage of this legislation, we believe it would be unfair to go back on the promises made to tenants with the passage of Bill 4.

The second issue I would like to speak with you about is with regard to maintenance standards.With regard to work orders, the same basic provisions of the Residential Rent Regulation Act have been brought into this new bill. Rents are to be frozen upon non-compliance by a landlord with a municipal work order or, in some cases, an order issued by a provincial inspector. The legislation does not address the inability of many tenants to have local housing standard bylaws enforced and to get work orders issued.

In the area we serve there are major difficulties in getting bylaw enforcement officers to understand their role with respect to housing standards in residential tenancy situations. In the town of Huntsville, for example, we have had an ongoing battle with the bylaw enforcement officer, who does not understand at all that he has a role to play in residential tenancies. In fact, they have said, "If we have to do this, who is going to pay for it?" Presumably, he means the tenant or the legal clinic must pay every time an inspection is made. Although they have a bylaw, they do not quite know what to do with it.

In other areas, like Gravenhurst, there is no housing standards bylaw at all. Unfortunately, this is the area of our district where most rental housing is found. There are a lot of senior citizens living in the town of Gravenhurst in rental housing. The ability of tenants to obtain work orders is an empty right in this case. We therefore strongly object to the proposal to disband the Residential Rental Standards Board. It is the only mechanism in many areas to assist tenants in pushing their local governments towards establishing property standards and in other areas, such as Huntsville, in helping the municipality to understand what its role is in enforcement.

The third issue I would like to discuss with you has to do with the rent registry. Bill 121 eliminates the commitment which was made under the Residential Rent Regulation Act to register rents in buildings with one, two, or three units in the rent registry. As most rental units in rural areas come under this category, this bill effectively denies rent review coverage and protection to rural tenants. We understand the reason this measure may have been considered is the difficulty in discerning where these units are located in order to have them registered under the current system. To resolve this problem, and to ensure that rural tenants receive the same rights as other tenants under this new act, it is our submission that the onus be placed on landlords to register rents.

This may be accomplished simply by requiring the landlord to provide the tenant with proof of rent registration within 21 days of the commencement of a tenancy. Failure to provide proof of rent registration would result in tenants' obligations ceasing. As you are no doubt aware, this is identical to a measure currently contained in the Landlord and Tenant Act, sections 81 and 82, with regard to written tenancy agreements. This mechanism is perfectly appropriate for any number of rental units in a building.

Tenants living in buildings with four, five and six rental units may look forward to the opportunity of their rents being registered. However, the date for the first registered rent has been moved up—from August 1, 1985 to October 1, 1990—in Bill 121. This has effectively given a second amnesty to landlords in these buildings. We do not understand why landlords cannot be required to bring forward records of rent through the past seven years. This information should be kept by landlords in the case of an income tax audit and should be made available.

The fourth issue we would like to speak to you about today is with regard to operating costs. The bill proposes that there be a higher annual rent increase and more generous provisions for increases above the guideline for tenants in buildings with six units or less. As we have already pointed out, rural tenants do not generally live in buildings where there are seven units and more. Their costs for housing are not less than urban centres, no matter how it may look from an urban perspective. Therefore, there is no justification that can be made in keeping the distinction that has been made to setting two categories of annual rent increases.

Finally, as has been already mentioned to you by the previous presenter, we do not agree with the exemptions for non-profit housing and for housing where additional services are provided. There is no reason we see, particularly in the last area, that the rental portion of the amount to stay in those particular housing situations cannot still be covered by rent review and that the service part be outside of that. This is also a particular interest in our area as a number of institutions are closing down and more group home types of accommodation will be made available.

That is the end of our presentation for this morning. If you have any questions, we would be pleased to try and answer them.

1030

The Chair: Very good. Mrs Harrington, about a minute.

Ms Harrington: Thank you very much, Ms Campbell, for coming. You have done an excellent job in looking through the legislation. I wanted to mention a couple of things.

First of all, with regard to the last point you raised, about other types of accommodation where other services are involved, one of the main ones is the nursing homes and that type of accomodation. The report that is coming down, the Lightman report, will probably be in October, and then we will be considering that. We do feel an obligation, especially to seniors and students and others, to have some kind of coverage on rent control.

Maintenance and the problem of bylaw enforcement is certainly something I think we have to look at.

The rent registry covering down to one unit is something I think we will also be looking at.

You mentioned the problem of automatically removing the capital pass-throughs that are of a temporary measure. We had a suggestion yesterday of having the rent broken into three parts: first, the rental for the premises; second, the tax portion; and, third, the temporary charges which would come off. What do you think of that kind of suggestion?

Ms Campbell: I am not sure of the purpose of splitting them in three.

Ms Harrington: So that tenants know how much is for temporary charges, so that it does not get hidden in the rent. It would be difficult. We have not investigated it.

The Chair: Do you like that kind of scheme basically? Yes or no.

Ms S. Murdock: Nobody ever answers that way, are you kidding?

Mr Tilson: Ms Campbell, the people you help are obviously people who are poor, who cannot afford any increase and whose income is basically the same in a continuous manner. As you know, this legislation is not rent control; this is rent review. In other words, it enables landlords to continually charge more and more and more, so it is not going to help those people. I guess that is the question our party continues to throw out to people you represent, that this legislation is not going to help those people one iota. In fact, it is going to make their situation even worse because their rents are going to be more.

You are saying they cannot afford the rents they are being charged now, so I guess my question to you is, what are we going to tell those people whose rents keep going up and up?

Ms Campbell: Their rents are already going up every year now anyway. Many of the tenants we have talked to, as I mentioned in the beginning on the capital pass-through items, want improvements made to where they live. One tenants' group I work with, in a mobile home park, actually, knows it wants renovations. They are actually sitting down considering with the landlord how they can make the improvements, as long as they do not have to pay for them for ever and a day. If they get an improved road going through their mobile home park, they are willing to pay for that. As the system works now, you pay for the improvement over, say, a five- or a ten-year period, but once that period is up, it is up and the rent can go back down because that capital item has been paid for.

Mr Brown: I represent the riding of Algoma-Manitoulin, and much of what you talk about is very similar to the experience in my riding: the issue of property maintenance; who does it. I represent an awful lot of small municipalities that do not have bylaw officers at all, period, and a number without property standards bylaws or any of that good stuff. I wonder, given the rural northern area, although I am reluctant to call Muskoka northern—

Ms Campbell: We are too.

Mr Brown: But it is a reality out here through a lot of the province. I am wondering how you see this kind of enforcement being done. Should the province do it? My experience tells me most of the very small communities do not have the ability to do it. Even if they want to, they do not have the people who can enforce it. I am just wondering whether you can give me a suggestion on how this possibly could be done in the real world.

Ms Campbell: We have had some good experience with the standards board helping us deal with our problems in Gravenhurst. Rather than disbanding that board, I see a more expanded role. We have not started to deal with the standards board in terms of the problem in Huntsville yet, but with some sort of governmental organization coming in and talking with them about what their role is, I think we will be able to resolve that problem because they do have the bylaw and the officer.

Part of our problem, and a problem in a lot of other rural areas, I think, is that the clinics are new. Before they came there was not a whole lot to assist tenants in terms of getting those kinds of things done, so for us it is going to be an educational process. I think the standards board can play that kind of educational role with the municipalities as well, and I know in terms of Gravenhurst, where there is none at all, the standards board is playing a role in pushing them towards getting the bylaw. I really think it is an organization that has to keep going, and perhaps the role needs to expand.

MALLETTE GORING AND ASSOCIATES

The Chair: The next presenter is Mallette Goring and Associations, Steve Malcho. Steve, we will be following the same procedure of 15 minutes, and you can withhold some time for questions and answers if you wish.

Mr Malcho: Welcome, committee members. My name is Steven Malcho. I am a rent review consultant and real estate agent with Mallette Goring and Associates, a commercial and investment real estate company here in Sudbury. Of late it has been more of a real estate agent than a rent review consultant, because I can assure you the landlords in this city as well as around the province are running away from rent review and are avoiding, at all cost, any renovations and anything else they can do to stay away from the rent review offices.

I am rather fortunate in that the entire rent review issue of the last eight or nine months has really just affected me in the line of a job, as opposed to my life savings being tied up or devastated by the policies of the government. That, for me, is something of a relief. For some of my

clients, though, I can assure you it is an ongoing nightmare they are not soon going to forget.

I guess I should begin with a critique of Bill 121. It is somewhat lengthy, so I am going to try to limit it to aspects where I see problems existing. Part I of Bill 121 deals with basic rules of rent review. In particular, one issue has to do with having two guideline amounts. As I have read, the reasoning behind the two guidelines is that there are economies of scale that come into play, where buildings of seven or greater units are benefiting from the fact that they have larger units, or more units, and they are able to spread their costs around.

Economies of scale work very well in the manufacturing sector, but I can assure you that they are almost nonexistent in the rental market. There are no economies of scale in municipal tax; there are no economies of scale in heating or hydro or repairs and maintenance. Your plumber is not going to charge you less to come out if you have eight units as opposed to six units. Economies of scale are a non-issue, and two guideline amounts based on economies of scale are totally irrelevant in this case.

While I do not necessarily have a problem with two guidelines, I would like to see some significant evaluation done to try to understand why they chose seven or greater units. The obvious seems that they had previously required buildings with seven or greater units to be registered, so they chose seven or greater units when it came to choosing two guideline amounts. I think it was a pretty ridiculous way of determining legislation if that was in fact the case.

As far as economies of scale and having two guidelines go, I can also tell you that larger buildings have a larger proportion of common area space. They have parking lots for visitors and what not, as opposed to smaller buildings, which are usually scraping together just enough parking space for the tenants themselves. When the landlords of larger buildings are dealing with their costs, they are giving the tenants additional parking for visitors, which they have to pay for in snow removal and what not.

Laundry facilities: You will not see a lot of six or smaller units with laundry facilities. This is a cost that is borne by the landlord in almost all cases. Perhaps he charges a per-use charge on the washers and dryers, but that does not take away from the fact that he is heating and paying municipal taxes on that area. I think you are seriously overlooking the fact that landlords of larger buildings are paying out of their own pocket for areas the tenants are not paying for. They are eating that cost themselves.

On a planning point for my clients, as a rent review consultant I see no other choice for them but to ask for a change in services. I would recommend to almost any of my clients who are paying the hydro for their tenants' units to switch it over right now and have a change so that the tenants pay the hydro, to take the reduction in rental rate right now, because Ontario Hydro is talking about a 44% increase over the next three years.

Why would landlords who are already being beaten up by Bill 4 and many other aspects of this bill want to continue to pay the hydro? If it amounts to a $70-per-month charge right now, it seems to me that a prudent landlord would ask for a change in service, have the tenants reduce the rent by $70 and let them eat the cost over the next few months. I am sure this government was not anticipating something like that, but from a landlord's perspective I see no other reason to continue paying the tenants' hydro into the future.

Another area that part I of the bill deals with is the extra 3% that is going to be allowed, and that is going to come to the landlords in two different ways: the extraordinary operating costs and the capital expenditures. In Sudbury alone, where a market value assessment took place using 1988 as the assessment year, many landlords of what are termed three-storey walk-ups were faced with 40% and 50% increases in their municipal taxes over the next year, between 1989 and 1990, actually. With Bill 121 as it exists, 3% is not even going to come close to having them recoup their costs. They are going to actually eat such large sums of money that if there is any profit built into a landlord's portfolio, there is no way he is going to be able to cover these outrageous municipal tax increases that have taken place.

1040

Here in Sudbury I can say that they are somewhat lucky because the reassessment took place last year and most of the landlords have had their kick at the cat, and the ones who have applied have gotten their rent increased for it. But that is not to say other municipalities in this province are not going to move along with a similar market value assessment, perhaps based on 1988 or 1989. Things are going to change. Those landlords are going to end up eating the cost. So the 3% extra is not going to help out anyone in terms of extraordinary operating costs.

As far as capital expenditures go, we are led to believe they are going to break them into two areas: eligible capital expenditures that basically deal with the structural integrity and energy efficiency of the units, and ensuite capital expenditures.

Having to eat the costs of extraordinary operating costs themselves because of this meagre 3% cap, I can almost assure you that if they have the extra money, it will probably be channelled towards the structural integrity end of their investment because it is their investment and they want to secure it. I cannot see them doing any ensuite work. So the tenants are only going to benefit to the extent that they are going to be limited to the 3% increase. They are not going to have the benefit of perhaps new energy-efficient windows or new carpeting when the carpeting seems to be getting a little shabby, or new kitchen cupboards or stoves, or new fridges when they start frosting over a little bit more than they probably should. The 3% cap for extraordinary and capital expenditures is totally unimaginable for the landlord. Bill 4 and the talks around that had led us to believe that capital expenditures that were caught by Bill 4 were going to be dealt with somewhat fairly. Bill 121 proposes any capital expenditures that were completed between January 1, 1990 and June 6, 1991 would be subject to this 3% cap as well.

People made sound business decisions based on the laws at the time, and now we are coming back with "We're going to give you 3%. Ignore the fact that the Residential Rent Regulation Act allowed you to do renovations and make applications to the Rent Review Hearing

Board or rent review office." Now they are saying: "Okay, we kicked you in the teeth with Bill 4 and now we're going to kick you in the teeth with Bill 121. We said we were going to help you out if you were caught." Now they are talking about the same 3%. It is totally unfair to the landlords and I seriously hope that you are considering some changes with respect to the capital expenditures that were caught with Bill 4.

As far as laws and rules go, it almost seems that this government has decided there are two standards, basically: one where the government can change the rules and laws retroactively to suit its cause of the day, and one for the rest of the people who are going to have to make do with what they have. The capital caught by Bill 4 has to be dealt with in a more fair manner. It is totally ludicrous.

Tenant applications and rent penalty orders: Tenants have every right to ensure they are dealt with fairly. Nobody is going to argue with that. But we are dealing with rent reductions for something as vague as inadequate maintenance, which this government has not even begun to try to define, let alone determine who is going to police it and decide what in fact is inadequate maintenance. I really would be interested in hearing from the members of the NDP how they propose to do this. Perhaps increasing the rent review staff by 2,000 or 3,000 individuals might do it. Being that we are dealing with a $9.7-billion deficit, I am sure they are quite willing to spend the extra money on that.

Municipal work orders: This is somewhat unbelievable as well. They are proposing that if landlords do not comply with municipal work orders within 30 days they could be facing rent penalties. There are a couple of things that really bother me with this. Aside from the obvious problems in trying to get contractors in to do work when it is seasonal-type work, whether it be roofing or parking lot repairs or what not, or simply getting the contractor in to do it, there is the issue of how the Ministry of Housing seems to be able to interfere with municipal bylaws and the enforcement of municipal bylaws. They are essentially taking away the right to appeal municipal bylaws.

There are appeal processes for everything. If this item stays in here, the appeal process is gone. They comply within 30 days or they get a rent reduction. You do not have a right to appeal a municipal work order now if this stays in here. It is unimaginable.

There also used to be provisions for increased financing costs, and I know that this, along with the financial loss phase-ins, was always a sticky item with the NDP. I am not even going to begin to try and defend the financial loss phase-ins, but I would not mind trying to talk to you about the increased financing costs.

There are a number of ways of dealing with financing costs increases. Financing costs are the largest single cost to a landlord to operate his facility. Perhaps you may say, "Maybe he made not so wise an investment in a property, he overpaid, and we are not going to allow these principal and interest payments to be passed on to the tenants." First of all, the phase-ins are gone, so landlords are going to be eating losses that they may have got themselves into with the help of this government when they purchased.

To deal with the financing costs increases, at the very least the interest component should be dealt with. We have no control over what the Bank of Canada does and what the federal government, in conjunction with provincial governments, does to control the interest rates in this country. Right now we have the benefit of low interest rates. I can assure you these are not going to be around in two years' time. Why are the landlords expected to eat the costs of the interest rate changes?

Fine, if you want to build such a system that costs no longer borne come out, that is fine, but do it and do it right. If you are going to go pulling out capital expenditures after two years, then make sure you allow the financing costs increases, the interest portion at least. If you are going to pull out one, you can pull out the other one. Interest rates change and go back down again, but to totally ignore them in Bill 121, there is absolutely no cause for it and no reason why it should take place.

Another part of Bill 121 deals with rent registry. You are talking about registering four to six units now. In the rent review process, form 9Rs have to be issued which basically outline what the rental charges were. The tenants have a time period in the past two years to be able to supply information that would contradict the registry information the landlord makes.

These 9Rs are the result of the registration of buildings some four years ago. There are thousands of 9Rs that are yet to be issued by the Ministry of Housing. Now you are proposing to put four-to six-unit buildings into the rent registry process too. Again, unless you are going to create another 2,000 or 3,000 jobs with rent review staff, your people that you have cannot do this work. There is no chance they are ever going to catch up.

In closing, I would like to just say this: I realize this rent review-renovation process is in order and is not going to stop. You guys are going to just continue on with this. But I have to tell you that if the government had been honest and fair in its whole dealings with landlords on this matter, it would not have gone with this huge broad-brush approach. You target the people who are being hurt. Nobody denies for a minute that there are too many people paying too high a percentage of their income on housing, but also—the statistics prove themselves out—there are too many people living in low-rental units that could be available to people who really need them. Unless you are going to target the people who are actually being hurt, you are just creating another fiasco that is going to continue on and continue on.

1050

The Chair: We have time for one question per party.

Mr Brown: I was interested that at the first of your presentation you were talking about removing the electrical rates, for example, from the rent. As we know, we have a government for which its policy is high energy costs; that is the policy of this government. It would seem to me that many landlords would follow your advice, but when we were in Toronto we also heard from a number of presenters that they thought this could be taken further, that property tax, for example, could be taken out of the rent, and that a number

of other what we might consider costs that are completely beyond the scope of a landlord to control might be reduced. What are your thoughts on that sort of approach?

Mr Malcho: The norm has been the more direct services and facilities: the hydros, the heats. As far as municipal taxes being taken out are concerned, if rent review would even consider it then yes, absolutely. If a landlord can have rent review bite on that, then he should, because as long as rent review is taking away the avenues of the landlord to recuperate costs that he is legitimately incurring that are beyond his control, why does he not pass those on to the tenants?

Ms S. Murdock: Just to continue on Mr Brown's comment on the separation or delineation of costs such as hydro, for instance—I have read the papers too in terms of Ontario Hydro is supposedly going to be increasing 44% in the next few years—that cost, in my understanding of the legislation, would be included in the base increase allowed if that ever were to occur, that it is such an extraordinary cost it would not be calculated in that 3%. How does that jibe with your arguments?

Mr Brown: No.

Ms Poole: That is wrong.

The Chair: Please answer the question.

Mr Malcho: If I understand you right, you are saying that the hydro is being embedded in the annual guideline amount and he is getting recovery for it anyway, so why would he take it out or how could he take it out and pass the charge on to the tenants in two ways? Am I understanding you right?

Ms S. Murdock: Yes, okay—

The Chair: We only have time for one question per party. The gentleman has to answer the question and we have to move on to Mr Tilson. Have you answered the question?

Mr Malcho: I am trying to interpret the question more than I am doing anything.

Ms S. Murdock: I will talk to him after.

Mr Tilson: The NDP during the last election promised that it would reduce the bureaucracy in housing. Would you comment on that.

Mr Malcho: There is no way in the world that Bill 121 is going to reduce the bureaucracy; it is only going to increase it. Now you are throwing components in where there are going to be standards committees that are going to be going around checking on the maintenance standards. You are going to have rent review now with the right to go in and search and seize records from landlords' properties. You are going to have landlords basically now doing dual duty enforcing municipal bylaws. You are going to register four- to six-unit buildings when the seven and over have not been dealt with properly yet.

There is no way you are going to get this done, have it on stream and have it working on a day-to-day basis. The whole thing is either going to be years behind, which it already is, or you are going to have to increase the staff, increase the bureaucracy and increase the inefficiency of the rent review office.

Right now I have rent review orders in there that are waiting to be dealt with and they are sitting idle. They are being shuffled around to different parts of the province, trying to find a rent review office that has a little bit of spare time. Unless you actually are dealing with the whole system right now on a day-to-day basis, and I can assure you that almost no one in this room is like I am, you do not even begin to see the mess that things are in.

The Chair: Mr Malcho, thank you for your presentation this morning.

Ms Poole: On a point of order, Mr Chair: The question Ms Murdock asked might mislead people in the audience to believe that if there is an extraordinary operating increase, such as a 44% increase in hydro, it could not be put through as part of the 3% cap. We just wanted people to understand that is not the case.

Ms S. Murdock: On the same point of order, Mr Chair: If that is the way the question came out, I apologize, because that is not what I intended to mean. It was that the base rate before the 3% would take into account any—I used the term "extraordinary" and probably that is where the confusion arose. When the rent control agency would set the base rate or the inflationary rate, that is where such a cost as 44% hydro, if that were to occur, would be taken into account, and then the 3%. Do you know what I mean? That is what I meant.

The Chair: No further comments on that point of order? We have to move along.

CRISIS HOUSING LIAISON (SUDBURY)

The Chair: The next presenter is Crisis Housing Liaison, Barry Schmidl.

Mr Mammoliti: Does the budget allow for crystal balls?

The Chair: Barry, we have 15 minutes for your presentation. You can reserve some time for questions if you wish.

George, you are out of order.

Mr Schmidl: Thank you for this opportunity to present the views of Crisis Housing Liaison (Sudbury) to your committee. I was informed that there was a maximum of seven and a half minutes for my presentation, to be followed by questions. I am going to shoot for that, so I will attempt to be brief and to the point.

Allow me to begin by introducing the organization I represent. Crisis Housing Liaison (Sudbury) is a non-profit organization which provides assistance to people in need of housing. The primary service currently offered by the organization is a housing registry program. This program consists of a computerized listing of all available rental units in the regional municipality of Sudbury. These listings are given to families and singles who register with the program. In 1990, a total of 1,353 families and singles looking for housing used this service.

Using the registration information given by our clients, statistics are compiled by the agency on a quarterly basis in order to secure and maintain funding for the program. The statistics also provide useful indicators on the impact the lack of affordable housing has on people's lives. I will be referring to these statistics through my presentation to

demonstrate the rationale for our position. I believe everybody has a copy of the handout with the tables in it.

Sudbury, and indeed large parts of the province, is in the midst of a serious housing crisis. Vacancy rates in the Sudbury region consistently around or below 1% demonstrate that. Crisis Housing Liaison statistics illustrate the situation quite well. Table 1 in the package that has been distributed to you shows that over 42% of the clients coming to our agency in 1990 were living with family or friends or in a temporary shelter of some sort or "on the street." In actual numbers, this means that 574 clients did not have a place to call home when they came to see us last year.

We are not talking here of only the stereotypical and incorrectly portrayed street person who does not hold a job and has many social problems. As you will see in table 2, the largest single source of income for our clients was a job.

As you will see if you look at table 3, over 60% of our clients were families. Please keep in mind that when we refer to a client we are talking about a single person or a family, not the number of individuals served. Each family client represents about three people. Children were a significant part of the 42% of our clients who were homeless in 1990.

My purpose here is not to take up the committee's time by arguing that we are in the midst of a serious housing crisis. Any rational human being can see that this is the case and to disagree is to show that one has one's head in the sand. Rather I have passed on this information to you to show the depth of the crisis we find ourselves in. It is a crisis that the unscrupulous can take advantage of. It is for that reason that we support a strong system of rent control that is fair to both tenants and landlords and prevents unethical or greedy individuals from exploiting the crisis in affordable housing for their own financial gain.

Crisis Housing Liaison supports a system of rent control that provides tenants with protection from unreasonable rent increases, but allows landlords a fair return on their investment with flexibility for some exceptional costs allowed. We support a system that requires that good repair standards be maintained and provides landlords with the cash to meet these obligations. We support a system that helps both landlords and tenants by allowing for a swift appeals mechanism.

To a large degree, the Rent Control Act conforms to our view of what a good system would be. In comparison with the Residential Rent Regulation Act that it replaces, it is a very good system. The rent regulation act allowed for such things as much larger rent increases than the rate of inflation, landlords flipping their properties and passing on the cost to their tenants, the expense of unneeded cosmetic renovations on buildings being charged to tenants through rent increases, and a glacially slow appeals process that frustrated both landlords and tenants.

No system of rent regulation or control is perfect, but we feel that this piece of legislation is an improvement over the previous government's law.

I will now turn to discussion of the Rent Control Act itself. Economic security is something many people in Canadian society lack. Quite simply, paying the bills is a problem for many people. It is not through a lack of financial skill or through wasteful spending; it is because money taken in does not always equal the amount that has to go out. When the major expenditure each month is that which keeps a roof over your family's head, it is a serious concern for someone who may not have the money for this month. If my choice was paying the rent or feeding my 10-month-old son, I know what decision I would make.

The Rent Control Act provides some measure of security against economic eviction of tenants. The guidelines for maximum increases and the limits on the above-the-guideline increases provides a measure of economic security to tenants, although the five-year exemption for new buildings will mean that tenants in those units will be denied any significant security.

1100

One of the major threats to tenants in the present housing crisis is the amount of rent charged. Generally speaking, the more affordable the unit, the less likely it is to become vacant. Why would you want to let an affordable place go, unless it was in poor condition or you are living in overcrowded conditions? If you will refer to table 4, you will see that average rent of vacant units generally exceeds the average rent of all units, vacant or occupied. In the case of two-bedroom units it is by $130, and by hundreds of dollars in the case of three- and four-bedroom units. This would not necessarily be a bad thing if people were normally able to pay these rents. If you refer to table 5, however, you will see that this is not necessarily the case. In order to pay 30% of your income for the average vacant two-bedroom unit, you would have to earn $23,680 a year. This is not a princely sum, by any means, and it is certainly within the range of many. However, if you look at the average personal income for a woman in Sudbury, you will see it is only $11,518. Consider what this means for a single mother with two children who works for minimum wage or is receiving social assistance. This is by no means an extreme example. A full-time minimum-wage job would earn one $11,232 a year, based on 40 hours per week and $5.40 an hour. The implementation of a system like that in the rent control act would help keep affordable housing affordable. It would lower the number of tenants evicted for economic reasons and would ensure that affordable housing is decently maintained housing.

The argument exists that getting rid of rent control entirely would cause more affordable housing to be built, because landlords would make more profit and want to construct more units. As an economic theory, that seems quite sound. However, as with many seemingly sound theories, it is not borne out in practice. British Columbia has no rent regulation and has not had it for some time. That province has a similar housing crisis to Ontario in terms of vacancy and unaffordability of rental housing. If British Columbia's wide-open rental market arrangement has not helped the vacancy situation, there is absolutely no reason to believe that removal of rent control in Ontario would help things here.

I want to talk next about landlords and the act. It is truly a shame that a law is required because a few landlords are unscrupulous. The vast majority of landlords are decent people who care about their properties and are not in business

to exploit others. Unfortunately, society has to have laws to protect us from exploitation by others, whether it be false advertising, child labour or substandard living conditions. Any system of regulation will no doubt work hardships on some people; however, the Rent Control Act, we feel, goes a long way to meeting the needs of the average landlord. For example, the requirement that landlords stick to set maintenance standards or be penalized should be offset with the fact that there is a built-in 2% yearly increase specifically set aside for repair. There is provision in the act that the landlord can apply to have certain costs added to the regular rent increase and carried over more than one year, if necessary. In addition, landlords of some older buildings can use part of a $15-million fund announced by the minister to bring their units up to standard. Landlords of smaller buildings, many of whom own one building as an investment or as their primary residence, are eligible for a larger annual rent increase because of the higher cost per unit of operating them. Significant increases in municipal taxes and utility cost increases may be passed on to the tenant. Many landlords and, indeed, home owners have cited these costs as major impediments to their continued ownership of residential property, and this provision partially deals with the problem.

Finally, the act allows for landlords to apply for an increase above the guideline for capital expenses made during the year and a half prior to the act coming into force.

In conclusion, I would like to say that there are some problems with the system proposed in the act, such as the five-year exemption for new buildings, and no system will make everyone happy and be without bugs. However, it is our opinion that the proposed Rent Control Act is a considerable improvement over the previous government's legislation and is generally a just system for both landlords and tenants. I would like to thank you once again for the opportunity to make this presentation to this community, and I look forward to your questions.

Mr Tilson: I am pleased to hear your remarks. I must say you are probably one of the few people that come to these hearings who probably has no real axe to grind other than to provide more housing. Your comments were anti-government, pro-government, anti-opposition, pro-opposition, and I appreciate that.

Mr Schmidl: I hope I got you all mad at me.

Mr Tilson: No, we just appreciate your remarks, sir. I would like you to comment with respect to the rent registry system. Anyone involved in municipal politics, or really anyone, I suppose, in the province of Ontario, knows that there are all kinds of illegal apartments in areas that municipalities have not zoned those apartments to be in and they are generally overlooked, mainly because most municipal councillors are sympathetic towards the need for housing.

The fear that has been put to me is that the rent registry system with all units being registered might indeed force municipalities to take action and do away with those illegal units. You must see tenants, you must see apartments. Do you fear that in Sudbury, in the north?

Mr Schmidl: I think there are two ways of addressing the problems of illegal units in the rent registry.

First, a review of the Planning Act and, indeed, municipalities' official plans and planning processes, should be undertaken with regard to what exactly is an illegal apartment. Should you have to get a special exemption to put an accessory unit in an R-1 zoning area, for example? That has to be looked at.

It certainly could be a problem with the rent registry that it could cause, through the process, the elimination of some of the illegal accessory apartments. There is a problem in that some of the accessory apartments are in very poor condition and—

The Chair: Thank you.

Mr Schmidl: I will try to wrap up real fast. If they are in such poor condition that people should not be living in them, perhaps people should not be living in them.

Mr Brown: I too found your presentation helpful. I particularly find the numbers you present helpful. The first thing I must do is talk a little bit about the British Columbia experience because you do not have, perhaps, the most up-to-date information. The information on British Columbia is that the rent controls were taken off in 1983. At the time rents were higher than they were in Ontario. Now they are comparable and now their vacancy rate is higher than Ontario's.

My real question revolves around—and I think this is an important issue—your suggestion that the units on the market today are generally the higher-priced units that the average is quite a bit lower, and that makes it unaffordable. It seems to me that one of the problems we have is a targeting problem: The units people would like to be moving into, that they can afford to move into, are not available.

I wonder how this legislation is going to narrow that gap or make affordable housing available to those that really need the affordable housing. What does this bill do to help that situation, which is a cause of concern to all of us?

Mr Schmidl: Briefly, on what you said about British Columbia, in general the province's vacancy rate may be higher than that in Ontario, but there are municipalities that have the lowest vacancy rates in Canada except for Sudbury, particularly Matsqui, British Columbia, which has the lowest vacancy rate in Canada after Sudbury.

Mr Brown: Those are the latest statistics we have.

Mr Schmidl: In any case, that was not the question. Could I just ask you to rephrase the end of your last question?

1110

Mr Brown: What I am really asking is, we know we have about 25% or 30% of people that cannot afford housing and we have a real problem with affordability. We also know we have a great number of units which are not on the market, and they are not being vacated because there is a financial advantage to stay there. I am just wondering how this legislation is going to help that situation.

Mr Schmidl: Under whatever system you have it is quite normal for people to stay in affordable units. Generally speaking, you are always going to see the higher-priced units vacated more often, because when people find an affordable place to rent they are going to want to stay there as long as they possibly can. The problem with affordability

is that there are a lot of poor people who cannot afford the rent they are paying now.

This legislation, except in really exceptional circumstances, is not going to cause rents to go down. They are going to regulate their increase. That does not specifically help the people who are poor and cannot afford where they are living now—

The Chair: Very good, thank you.

Mr Schmidl: Can I finish my sentence anyway? That was a comma, not a period.

The Chair: That was a very long answer. I thought you answered the question two or three separate times.

Mr Schmidl: If I can just—one sentence here. It is going to stop the rents from becoming worse.

Ms Harrington: I wanted to comment on your organization. Over our travels across the province we have run into various groups which are housing help centres, in a way. I think these are very useful groups to have in the city and especially the statistics and the number of people you help. I really thank you for being involved in this project.

The question you raised with regard to accessory apartments—and Mr Tilson actually asked about the rent registry. First of all, going back to what the previous presenter had said, the rent registry is catching up, and we are determined it is going to be a system that works across Ontario. The staff have assured me that things are going very well in that direction. We want to cover all units in the province. That is our goal and we are very concerned if there is a problem with accessory apartments being illegal, and we are making sure we move in other directions to protect those people before any problem arises.

We are very concerned about maintenance; that is a very important part of this legislation. We are determined that maintenance has to be protected in these buildings.

The other question you brought up, and the previous speaker as well, is the stability of accommodation. People who are renting want to know their rents are not going to change dramatically. That is why this bill is there.

The Chair: Your question?

Ms Harrington: How many people in the city of Sudbury would get income increases of 8% every year to cover these costs?

Mr Schmidl: I do not know of a lot of people, certainly through speaking to other people or through the media or whatever, who receive annual increases of greater than 8% in their rate of pay. Perhaps if they are promoted or something like that, or go to a different job, they may end up with an increase that way, but I certainly do not get 8% annual increases and I do not know—

Ms Harrington: Neither do we. That is why we are passing this legislation.

The Chair: Thank you for your presentation, Barry.

SUDBURY DISTRICT PROPERTY OWNERS ASSOCIATION

The Chair: The next presenter is the Sudbury District Property Owners Association. Have they arrived? Are you Patricia Chivers?

Ms Beavis: My name is Lynda Beavis.

The Chair: Okay. We will be following the same procedure.

Ms Beavis: Just before I begin, with the indulgence of the committee, I would like to make a comment to Ms Murdock. I presume you read what you wrote. It is very enlightening for us as an audience to sit and actually hear that the government really does not know what this legislation is all about and how it is going to work and what the components are. It is very disheartening and it is very sad.

Ms S. Murdock: Were you listening to me?

Ms Beavis: Yes, I was listening to you.

In the introduction I would like to say that earlier this year we addressed the standing committee regarding Bill 4. At that time, we told this committee that to deal effectively with, and hopefully to resolve, the housing crisis facing the Ontario housing market, the government and tenants groups and property owners must work together co-operatively and in a spirit of compromise if we hope to develop long-term strategies to solve a very difficult problem. Setting an adversarial tone between the landlords, the business sector, government and tenants' groups, polarizing us into warring camps, is not in the interests of this province or of its residents.

Bill 121 in its present form is a recipe for disaster. The proposed legislation gives tenants more rights and landlords more obligations. Running the province of Ontario is the government's business. Providing homes for people is a landlord's business.

In any business, cash flow is the major component for success. However, unlike the government, the private sector has no access to the public purse to finance expenditures. Just a few short months ago the present government made all kinds of wonderful election promises, just what the public wanted to hear. It seems that reality has set in. As an example, the four-laning of Highway 69 to Toronto is postponed indefinitely again. Why? Cash flow.

Reducing the annual guideline for buildings over seven units immediately eliminates cash flow. Reduced cash flow means regular maintenance jobs may have to be postponed. In addition, common-area capital costs, such as hallway carpeting, will have to be funded from reduced cash flow. Meanwhile, tenants have the right to complain, and landlords have the obligation to comply with a work order issued by the ministry or face a rent reduction. The landlord is obligated to supply the standard of maintenance, even though he or she may not be able to recapture the expense of such repairs because of the 3% ceiling built into the legislation.

Ontario Hydro has already advised the public it intends to raise its rates 44% over the next three years to finance the cost of repairing and/or replacing one of its power plants. Under the proposed legislation, a landlord cannot ever recoup the full cost of this normal non-discretionary cost.

In any free market system the cost of doing business is priced out and the value of the goods or services provided is set out as a result. The landlord business has been out of the free market system for many years. However, most landlords will not complain as long as they are at least able

to cover the cost of expenses. Under a cost ceiling this goal is impossible.

How do you explain to the landlord the fairness of this legislation? How do you explain to the landlord caught completely by surprise by the retroactive feature of Bill 4 and subsequently led to believe—through, I might add, the consultation process that took place earlier this year—he could look forward to some relief under this proposed legislation that when the penny drops he is still left with an empty purse? Is that the way to build confidence in the people you do business with?

It would behoove you to understand that landlords are people too. Among other things, landlords create living space for people. They work, they create employment for others through renovations and repairs, they pay taxes and they exercise their franchise.

You thought voting was very important a few short months ago. Now you have painted landlords into a corner where the last resort will be judicial challenge. The whole scenario is the adversarial system at its best, and the worst possible solution to the problem.

The creation of more government bureaucracy has already invited considerable controversy with many landlords. The current administrative tribunal system in relation to the Ministry of Housing is perceived to be greatly slanted towards tenant concerns and therefore consistently unsympathetic to landlords.

The sheer volume of government involvement and intervention in the private and public sector makes administrative law an acceptable practice in a fast-paced modern society. However, to be effective, any administrative tribunal must be perceived to be fair and just. Where the legislation under which members of any tribunal must work is, or is perceived to be, unfair or to favour one party over another, how can the members of that committee offer to the public any semblance of fairness or justness in their decisions? Such will be the case with Bill 121 in its present form.

1120

As if all this is not enough, the recent passage of Bill 40, the Mortgages Amendment Act, seems to put everything into perspective. We told you in the last round of hearings that, in our opinion, if even one landlord in Ontario is forced into financial hardship or bankruptcy as a result of the proposed legislation, the social contract between the citizens and the government will be broken. Whether true or not, it could easily be construed that Bill 40 was enacted because you already know the outcome for some of the landlords affected by this legislation.

It is with great sadness that we see little hope you will listen to the real problems relating to the housing crisis in this province. In its present form, Bill 121 is completely unworkable. There are no long-range benefits to any party in the proposed legislation.

We invite you to listen once again. We invite you to seriously look at the affordable housing situation and provide subsidies where they are needed most. This is a social responsibility, not one for the private sector. We invite you to seriously look at how a business operates and base your legislation on realistic ways of doing business. Enact legislation that allows landlords to at least break even instead of forcing some into severe financial hardship, even bankruptcy. We invite you to seriously look at how the trades and subtrades will be affected by work directly resulting from unrealistic tax on capital expenditures. We seriously ask you to look at the balance between tenants' rights and landlords' obligations.

In our opinion, it is unfair to penalize landlords for problems they did not create. Rent review has taken its toll over the years, and under this legislation many business people, willing and able to provide housing, will take other investment opportunities, ultimately to the detriment of the very people you are trying so desperately to help, whether they want you to or not. The long-range outlook for the ramifications of this bill are very serious. The value of rental residential property will subsequently decline and will have no chance of recovery. An ounce of prevention is worth a pound of cure.

I will be happy to answer any questions about that.

The Chair: Thank you for your presentation. The first round goes to Mrs Harrington.

Ms Harrington: First of all, I do understand that because the legislation is not in place, whenever there is a period of change like this, there is uncertainty and there is fear and people do not know what the rules of the game are. That is why we are here. We are trying to find out everyone's feelings and their suggestions and take them into account. We understand this legislation is proposed and we are trying to fine-tune it to make sure it will work for all the people of Ontario, and that includes the landlords who want to earn a fair profit as well as the tenants of this province.

I want to tell you there is a need for regulation in the housing market. Some people believe there is not. We regulate licensing of cars. We regulate environmental standards. There are many facets of our lives that are regulated. Housing is a basic human right like health and education. Therefore, the government is involved in regulating this particular market.

I want to tell you also that there are no guarantees in business. Up to this point, when owning a building, all the costs, whether they were the financial costs of buying the building or the financial costs of operating that building, have been guaranteed to be passed through to the tenants. That is no longer so. The landlord must take some responsibility for that particular property. The upgrading that is necessary for maintenance has to be borne not just by the tenants but by the landlords.

Your suggestion of subsidizing people, which is an alternative to rent regulation, would cost a minimum of $1.4 billion to the government of Ontario and would be an increasing financial black hole. We would certainly not want to get into that because all of the people of Ontario, including the opposition, are telling us that the deficit is too large. We are trying to be and we are going to be fiscally responsible.

Ms Beavis: I do not know the question. I think all Mrs Harrington has done is comment, but I would like to reply to her comment, if I may.

The Chair: You have a moment.

Ms Beavis: In the long run there are not going to be private investors in the housing market and then the government is going to be left with the whole ball of wax. If your position is that a landlord should bear some responsibility in the cost overall of a building, we as property owners are not going to argue with that, but what we are saying is we cannot live with an unrealistic capital expense allowance. If you build in a 3% ceiling that encompasses not only extraordinary operation expenses but capital costs also, it is simply not able to be done. It is a virtual impossibility. If you are asking us our position, we are saying that the bill in its present form—that is only one reason—is entirely unworkable. It just cannot work.

Mr Tilson: Mr Mammoliti continues to say we are crystal-balling, that we are predicting the future. Well, I can say we are not. We are looking at facts that the government has put forward as late as its green paper, where it stated—I believe it was on page 3—that with private rental production reaching new lows because the cost of building, especially in relation to land costs, exceeds the market rents obtainable, there will be a major shortfall in meeting rental requirements after 1993 without new sources of rental supply. After 1991, virtually all anticipated new housing will be social housing, non-profit or co-operatives, which includes a mix of rent and rent-geared-to-income units. So the government's policy is that there will be no new private enterprise building rental housing after 1991.

My question to you is with respect to the existing housing from the north's perspective, because we have heard some evidence in the south. Landlords in the south are saying: "We don't intend to put any more capital expenditures, any capital funds, into capital improvements, because this legislation won't allow for it. All we're going to do is fight off the work order people just to stay alive." Would you comment as to what you perceive the position of the landlords and the owners of rental accommodation in the north is?

Ms Beavis: Mr Tilson, our position is no different than the one in the south. They are still humans. They still have a cash flow, a budget to meet, and they simply cannot do it. I might add one other thing: There are regional disparities, very real regional disparities, and one of them in the north is a longer heating season, which ultimately results in a greater cost to a landlord simply because you have to provide that facility for a longer period of time. The landlord's costs are increased here and yet he is faced with the same restrictions that someone in the south does not have to encounter.

I agree with your statement that there is going to be the majority of landlords—there are a few major landlords who can weather the storm. They will admit that. They have come full cycle and they can handle this interim period, but the majority, 98%, cannot. They will only be treading water, just trying to keep their head above water. They are not going to plan capital expenditures and they are now telling the subtrades, which depend on renovations for their income during the winter months because there is no real construction going on: "Forget it. There's no work. I'm simply not going to do the work because I cannot finance it."

Ms Poole: Thank you for your presentation. I will be brief because I know Mr Mahoney also has a quick question.

A number of people who have presented to our committee have made the point that the double guideline suggested by the government in Bill 121 simply does not make any sense. First of all, it is confusing. Second, it is based on the size of the building. So far, any presenters to our committee who have brought it up have said it costs the same to operate a small building as a large building. Could you comment on this?

Second, if you are going to have two guidelines at all—we doubt that you need to, but if you are—does it make more sense to base them on the age of a building and give a higher guideline to the older buildings as opposed to the newer ones?

Ms Beavis: In answer to your question, first of all, I do not think a dual guideline is the proper way to go. I am a great believer in each case on its own merits. There are some larger buildings that have horrendously low rates and some some smaller buildings that have closer to average market rates. Basing it on nothing but strict percentages and no logical explanation whatsoever just widens that disparity. There is just no reason for it. I really think it should be on an individual basis, building by building.

Mr Mahoney: I am interested when I hear the government spokesperson on this committee saying they are here to listen, to make the bill workable, and they want to hear your concerns. I would recommend you not be lulled by that kind of rhetoric.

My question would deal with items that are cost pass-throughs as a result of public policy. Hydro rates we have talked about. Municipal taxes we have talked about. These are things that are out of your control entirely and are set either by agencies or directly by other governments and simply passed on.

There was a statement made by the previous presenter that those increases can be passed on to the tenant up to a cap of 3%, I believe. If it is approved, it can be passed. How are you and your members going to deal with the double-digit tax increases and double-digit hydro increases and perhaps gas increases, that type of thing? Are you just going to close the door?

Ms Beavis: I think what is going to happen is that the Mortgages Act is going to find some very interesting occupants, and the financial institutions—some of the bankers I have talked to are already very apprehensive about the fact that the landlord is going to be able to open his books and show a red balance. Who is going to finance him on that? He has a work order that he has to comply with. He has nowhere to go, no leverage. He is already mortgaged to the hilt. He cannot get any more, and he is just going to walk away. He or she does not have any choice; that is the corner they have been painted into and it is a very real hardship, a severe hardship.

The Chair: Thank you for your presentation.

Ms Beavis: Thank you for your time.

1130

MAURIZIO VISENTIN

The Chair: The next presenter, Maurizio Visentin. We will be following the same procedure. You have approximately 15 minutes, and you can save some time for questions and answers.

Mr Visentin: Mr Chairman, members of the committee, I wish to thank you for permitting me the opportunity to express my views on the issue of Bill 121. My name is Maurizio Visentin and, beyond representing myself, I also represent four other family members who in 1987, as I stated in February of this year, jointly purchased two apartment buildings totalling 24 units. As you can easily determine, the magnitude of our holdings is small and family oriented, with a long-term ownership view.

Over the past four years, we have consistently carried out work to improve the condition of the buildings and the living standard of those who make apartments their home.

For the past four years, in one of the two buildings, which has 11 units, we have operated at a substantial loss, a loss which was further increased by the present government's introduction of Bill 4 and its subsequent passage into legislation. Details are provided in a submission which I made in February to the committee, and you have copies of that.

It is difficult to address Bill 121 as an individual piece of legislation in itself. Let us face the reality that Bill 121 is another attempt by another government to impose its vision of justice through laws on rental property owners. You are only adding one more patch to all the other temporary patches since 1975, but your patch is intended to be permanent, as if glued down with a super glue, perhaps the infamous Krazy Glue, and a crazy piece of legislation it is. Bill 121 is, in some ways, one step forward, in most ways at least two steps backwards, and certainly one step way out in the naïve left.

Thirty years ago this month, at the founding convention of the NDP, Tommy Douglas attempted to describe what he perceived to be the horrors of the free enterprise system through a joke. An elephant dancing among chickens was happily shouting, "Every man for himself." The present government's course in housing policy and its rent control policies are equivalent to this government being the elephant; the chickens are the small landlords of this province.

If I may be allowed to draw from another joke—two farm animals, a pig and a chicken, were walking down the road and approached a restaurant with a flashing sign, "Bacon and eggs." The chicken turned to the pig and said, "Isn't it wonderful to be making a contribution to society?" "Speak for yourself," said the pig. "Mine is a lifetime contribution."

The majority of landlords in this province have and continue to make a lifetime contribution to solving the housing crisis of Ontario. The small landlords of this province are not the fat hogs this government portrays. This government's legislative agenda will literally slaughter thousands of small landlords throughout this province and hand over more power to you and the large corporate landlords.

On June 6, the then Minister of Housing, through his ministry, mailed out copies of news releases of the minister's introduction of Bill 121. In the same tradition as the 1990 election campaign, the previous Minister of Housing, along with the Premier, continued the perpetuation of lies for self-serving political gains. The minister stated: "This legislation will provide Ontario tenants with the best protection in Canada. Tenants will never again have to fear the 15%, 20% and 50% per cent increases of the past.

The Premier, on November 28, 1990, is quoted as saying, in reference to the introduction of Bill 4, "Tenants were facing increases of up to 150%, 170%."

It would be nice if the two gentlemen could place their political rhetoric aside and ask for accurate figures. Between January 1, 1989 and October 31, 1990, 74% of all units in Ontario, or 887,857 units, did not seek a rent increase above the guideline.

How many units received rent increases of 15% to 25%? A total of 2.74% of Ontario's privately owned apartment units. How many received rent increases of 40% to 90%? It was 0.14%. If we examine Mr Rae's assertion of rent increases of 150% to 170%, the truth is that 154 units out of 1,200,000, or 12/1000 of 1%, received an increase above 100%. The truth reveals fabrication by both the honourable Mr Cooke and the honourable Premier.

I would strongly suggest that the then and present Minister of Housing, the Premier and every member of this government stop deceiving the public, because you are hurting innocent people. It may surprise you to know, although it should not, because there are a good half-dozen members of your caucus who are apparently landlords, that landlords are people too.

It may be fashionable to hate landlords, but the reality again is that the rent is not the largest expenditure for Ontarians. It is taxes. The cost of shelter as an expenditure of total income has consistently decreased. Most tenants do not need protection from rising rents, even if you choose to fabricate numbers. They need protection from rising taxes.

In Sudbury, in the private sector in 1987, the average rent for a two-bedroom apartment was $435. In 1990, the same apartment cost on the average $489, a rise of $54 over those four years, or a 2.7% increase per year.

Ladies and gentlemen, rent controls are a poor way to address the issue that you should be addressing: affordable housing in the province of Ontario. Do not forget that rent controls were a temporary reaction to wage controls, an outcome of manipulation of the media by Stephen Lewis and the playing of electoral politics by then Premier Davis.

Rent controls do not solve the problem of affordable housing, but rather transfer income that should rightly be going to rental property owners to tenants who are not low-income households. The rental property owners most affected are small landlords and there are no government aid programs for them.

The problem of low-income individuals spending large portion of their income on shelter cannot be solved by rent controls, since what you are asking the rental property owners to do is to personally subsidize rental property. Ladies and gentlemen, small rental property owners were never given the money-printing machine that the Treasurer of this province recently acquired; their debts have to be paid

The honourable Premier of this province would have us believe that his government can better manage the rental housing sector. Take a look at the Sudbury Housing Authority: increases last year in management costs, 13%; previous increases in management, 25.6%. Why two sets of standards, one for the government and one for the private sector? Will this government also cap funding and increases to the Ontario housing authority?

The average rent in Sudbury for a two-bedroom apartment in 1990 was $489 plus utilities. At one of Sudbury Housing Authority's largest complexes, the market rent for a two-bedroom apartment in 1990 was $612 plus utilities. That same market rent is now $668 plus utilities, an increase of 8.3%. Who is breaking the guidelines?

In one of the two apartment buildings we own, a two-bedroom apartment with appliances and all utilities paid for, averages $539 per month. In the other 11-unit complex we have, some units caught in the Bill 4 scenario, rent at $460 plus heat and hydro. Are these unreasonable rents? Why should our rents be substantially lower than the Sudbury Housing Authority's market rents? Who is subsidizing us? Why should we have to take money out of our personal earnings to subsidize rents stifled by rent controls?

The report of the Rent Review Advisory Committee, submitted to the Honourable Alvin Curling, Minister of Housing, in April 1986, clearly stated: "A number of mostly, but not exclusively, smaller buildings were, in 1975, charging rents well below then prevailing market rents for a variety of reasons. Typically the owners of these smaller buildings bought them with their savings and personal earnings and have maintained them through 'sweat equity.' Over the years of rent review these buildings have been caught in an unfair and deteriorating situation."

Finally, a recognition that there is inequity; but that legislation, although printed, was never passed.

Bill 121 is a far cry from such reasonable words. In a socialist fairy tale format, it caps all costs at 3% above the guideline. What will the landlords of this province do if Ontario Hydro actually increases rates by 40% over the next three years? Who will absorb increases in municipal taxes above the guideline? Who will absorb the surtaxes the municipalities are toying with?

How understanding will public utilities and municipalities be to the reminder that our costs cannot increase above 3% of the rent guideline? If by any chance they are going to increase above the guideline, they had better fit into the magical NDP 3% formula of how the world should unfold.

1140

At the same time, we had better pray to NDP socialism that the building itself will not require any capital expenditures above the guideline, and if it does, it had better be within 3%. If by some stroke of luck there should be a decrease in some costs, such as municipal taxes, under Bill 121 that will result in a rent decrease.

How naïve can you be about the real world of rental property and how it works? In 1988 one of our buildings was assessed at a rental income level of $370 per month for a two-bedroom unit, because that was the Ministry of Revenue's standard application for our area. Our actual rent was $341. Who cares? The ministry says and documents say it should be $370. Raise your rents? You cannot raise rents. Rent review, rent controls. Who cares? Absorb the cost.

That means that we, as the owners of one of the apartment buildings, are absorbing an extra $2,000 in municipal taxes a year. The tenants are not paying for it; we are. Good thing we are making a good profit. How am I for time, Mr Chairman?

The Chair: How much do you have left?

Mr Visentin: About three minutes.

The Chair: Can you condense it a little bit?

Mr Visentin: Yes. I will allow the members, especially the NDP side, to read, perhaps, the rest of page 8, which shows great leniency by the Premier towards his own members' mistakes.

What we have is misguided government attempting to solve Ontario's housing crisis via rent controls, using double standards and hypocrisy. Bill 121 exempts buildings with building permits issued on or after June 8, 1991, from rent controls. How will this help to alleviate Ontario's need for affordable housing? How many developers will be renting their units at affordable rents to those presently in need, realizing that within five years they also will be controlled by rent control?

You certainly have a grasp of the problem and how to solve it. But let us not panic. After all, the present government intends to build over 20,000 affordable housing units per year. Or is it 35,000? It presently costs $100,000-plus per unit to develop non-profit housing in this city, not including subsidies. In the private sector it costs on the average about $60,000. You had better keep that money machine well oiled.

As a taxpayer, I am telling you, I am tired of subsidizing. I also have to make a living. I also have a family to support. I cannot afford to support my tenants. I cannot support everyone who is out there. There is a need, but I am tired of paying taxes, ladies and gentlemen.

The private sector is providing the most affordable housing on the market. Neither rent control nor government housing projects will be able to solve Ontario's affordable housing crisis. You desperately need a private sector. You will not get the private sector to help with legislation such as Bill 4 or Bill 121 or the rhetoric in the Agenda for People which was issued prior to the election.

The Chair: We have time for one question per party. The Liberals are first. Mr Mahoney.

Mr Mahoney: Thank you for your very colourful presentation and for some of the material that I think might find its way into a few speeches somewhere along the line.

Ms Poole: He can guarantee it.

Mr Tilson: I will guarantee it.

Ms Poole: The Tory-Liberal accord.

Mr Visentin: You were not here the last time. I have to admit, I was a former member of the NDP.

Mr Mahoney: You were?

Mr Visentin: Yes, and I will admit that.

Mr Mahoney: There are a lot of those, I understand. It is a growing club.

Actually, you have answered so many things in here, but I would just put the same question to you as I put to the last presenter, and that is on costs that are set by public policy: taxes, hydro, that kind of thing. What plans do you have as a landlord to pass those costs on in some way, or are you just going to have to eat them? Have you talked to your accountant? How are you going to handle this?

Mr Visentin: To tell you the truth, accountants are very expensive. As I have tried to say in previous presentations, whatever can be done, we try to do ourselves; but, naturally, whatever can be passed on will have to be passed on. If the city intends to raise its taxes, and other public utilities intend to raise their costs above the guidelines, certainly I am not going to dig any further in my pocket. What have we been doing in the past? We have been taking money out of our own personal savings and putting it into the buildings. We have tried to cut every possible cost, and I think this government fails to understand that.

They have this conception—perhaps it is because they have lived too often in high-rise apartment buildings—that every landlord sends his superintendent out to do the work. Sorry. We get up early in the morning and we shovel the snow. We go to bed late after checking buildings. We do everything that possibly can be done ourselves, and when there is no money we scrape deeper in our pockets.

The Chair: Thank you, Maurizio. There is only time for one question.

Mr Mammoliti: Maurizio, I can understand your concern about paying taxes and being very upset at that. I think we all are. I know our government is certainly concerned about the average person paying more taxes. We have this commission under way to help us make our decision on what we should do with the taxes.

Maurizio, there is one thing I do disagree with you on, and that is that you are subsidizing your tenants. The tenants have never really been subsidized by their landlords.

Mr Visentin: I have to stop you.

Mr Mahoney: Keep going, George.

Mr Mammoliti: My opinion is that larger landlords have certainly been subsidized themselves by government. When you talk about some of the landlords in Ontario not paying any taxes at all, that is where you should be concerned. That is where we are concerned. To blame it on the tenants I think is wrong. You may disagree with me, but I wanted to say to you that it is the landlords, more specifically the larger landlords, who have been subsidized, and this bill addresses that.

Mr Visentin: If I may answer the statement, I think that again you are caught in the naïve thinking that I was in years ago as a member of the NDP, that there is someone else to be blamed for all problems. You did not listen to me. I said I am a small landlord. You are penalizing me for what others have done, and I do not feel I should be penalized. Do you want to address the problem properly? Make that visible in Bill 121.

Ms Harrington told me on February 18, when we addressed Bill 4, to have patience. I had patience and what do I get? Bill 121 that further penalizes me and places a cap on expenditures that were legitimately agreed to by tenants, a cap of 3%. I am subsidizing. I did the work. I paid for it. They are enjoying the apartment and the facilities and all the extras, the fridges and stoves that are not supposed to be in the apartment. I cannot remove them, and all that I can increase is maybe 3%. They agreed to pay $500 and more after the work was done. Now they are paying $460 and laughing in my face.

Try owning an apartment building. I told this government: "Go out. Buy an apartment building. Go out. Be a landlord. You make a lot of money. Buy some and rent it to the opposition." I did not see any takers. I do not see any takers. You are living in a dream world. Get real.

The Chair: Mr Tilson.

Mr Tilson: Mr Visentin, you have said it all. I have no other questions.

The Chair: Maurizio, thank you very much for your presentation this morning.

Ms Poole: Mr Chair, I wonder if I might ask for one piece of information from the ministry.

The Chair: Certainly.

Ms Poole: I can do it at the end if you would prefer.

The Chair: Yes, let's do it at the end. We have had two no-shows this morning, and I have also been informed that the first presenter for this afternoon is here and willing to make a presentation as he has a conflict with this afternoon. I thought we could call H and H Property Management.

Mr Mammoliti: Mr Chairman, I am just wondering if there is anybody else here who would perhaps like to address us this morning.

The Chair: I will have the clerk check the audience.

Mr Mammoliti: Because if there is, then we run into a situation of who do we listen to this morning.

The Chair: We are listening to H and H Property Management because they are on the agenda for the afternoon.

Mr Mammoliti: Yes, for this afternoon, but is there anybody else in the audience right now who is scheduled for this afternoon?

The Chair: The clerk will check.

Mrs Carpenter: I have a presentation.

The Chair: Barbara, are you all set for this afternoon? No problem?

Mrs Carpenter: No problem.

1150

H AND H PROPERTY MANAGEMENT

The Chair: We have 15 minutes for H and H Property Management.

Mr R. Hawkins: I should note that I appreciate you moving us up as I have the flu, but I certainly did not want to miss this occasion this morning. I am Roger Hawkins. I am president of H and H Property Management and H and H Investments. This is my brother Nick, who is a vice-president and also our accountant.

I would like to say that in another role I participated in this process dealing with housing issues in this province from the beginning. I have written briefs. I have addressed this committee on Bill 4. I have met personally with the

minister and had a deep discussion with him. Throughout it all, in my naïve way, I believed that it might be possible through co-operation and a moderate approach to influence in a positive way housing direction in this province. I hoped the government would have been motivated to listen and to understand all sides of this very complex issue.

The result, Bill 121, indicates that:

1. The current government has selective hearing and has no interest in co-operating with the property owners of this province.

2. The government is more concerned with political constituencies than good policy.

3. Reinventing an already broken wheel does nothing to resolve the housing issues in this province.

The government would have us believe that all landlords are greedy individuals who are mainly concerned with ripping off their tenants by providing poorly maintained housing at exorbitant rents. It may make great press, but it is utterly false.

The government believes that it is the private revenue property owners' responsiblity to provide affordable housing at their personal expense. Whose responsibility is it really? I say subsidize those who need it, in private housing units. Stop creating cash-guzzling ghettos called public housing.

The government believes it can provide housing more efficiently and more cost-effectively than the private sector. I say your units cost twice as much to build and your maintenance costs are 10 times that of the private sector. Compare $2,500 per unit in Sudbury for public housing units versus $250 per unit in the private sector.

You say in your budget you want to build 35,000 units; I also heard the figure 20,000. Can the taxpayers of this province afford it? We are looking at at least $3.5 billion. Can we afford the government taking over the housing industry in this province?

The government wants to encourage developers to build new units. The costs of construction and municipal services are driving the costs of new units and rents for those units way above current market levels in this community. The rising costs of single-family units, due to levies and developmental taxes, have encouraged many upper income earners earning over $50,000 per year to remain in very affordable rental units. An example: a two-bedroom unit for $450. People are living in them who earn $70,000-plus in income, thus limiting the availability of lower-cost units for those who really need them. That is a reality.

The government believes that individuals require no incentives to invest their hard-earned savings into housing, that providing homes for others should be your only reward. That is a fallacy. It is unrealistic and it will not work.

I say there must be a fair rate of return. If you want to cap rents, cap rents. I am all for it. If you think you want to stop the speculation market, then fine. But we have to have a fair rate of return or we cannot operate.

Bill 121 is an apt conclusion to your notorious Bill 4. It is a further Band-Aiding of a complex issue where political concerns take precedence over true problem solving. We are not solving the housing problem in this province. We are talking politics. The government has successfully alienated and further polarized property owners in this province, and it has done it well. Bill 121 is geared to further increasing our obligations with no incentives to us. The government through Bill 121 will financially squeeze the life out of many property owners—many, your neighbours.

I do not trust the government of this province. It has left us with no alternative personally but to (a) participate in a legal action against it under the Charter of Rights and Freedoms—we are one of the lead cases—and (b) sell out our blocks at a loss. We sold one today at a loss because we have no choice. We have been operating at a great loss and we just cannot afford to do it any more. We have pulled out our little equity that is left and we are reinvesting it elsewhere to survive. Our other building we are in the process of remortgaging so that we can survive. That is the reality, my friends, and we are talking about low-rise units.

Ontario is fast becoming the province that lacks opportunity for self-starters and hardworkers who want to invest for their future and invest in their province.

Mr Tilson: Sir, you certainly sound a lot more desperate than you were the last time we heard you and I can understand your frustration.

Mr R. Hawkins: I think part of the desperation is that we thought people would listen. We went and talked to the minister and the minister seemed to understand our concerns, and then we get Bill 121. It does not reflect reality.

Mr Tilson: The observations you make bring to mind a tenant speaking to me the other day about, "Great, our rents are going to be frozen or very minor increases," and in the next breath with a twinkle in his eye he said, "But are our taxes going to stay down?" I guess that gets into the observation that there is certainly a need for assisting the poor, and non-profit housing may be a source, but it is going to be a tremendous cost to the taxpayer of this province if the province continues with its program of encouraging people like you to sell your buildings, like you did today.

Mr R. Hawkins: I am a property manager. I also manage properties for other people. We have done that to try and survive, frankly, in terms of our own. I can tell you right now you are subsidizing the bloody units through your welfare programs and your social assistance programs and so on and so forth. This is an illusion to say that we are not subsidizing housing, because we are. Look at the rise in welfare costs in all the regions of this province and you know that welfare costs are going right out of hand. Do you know what I am saying?

Mr Tilson: I do.

Mr R. Hawkins: So you are subsidizing.

Mr Tilson: My question to you is, what do you perceive, for quality of life, the maintenance and capital improvements to rental units in the north will be as a result of Bill 121?

Mr R. Hawkins: You cannot squeeze money out of a rock that has not got any. I would love to do certain maintenance programs within my buildings to improve the environment for my tenants. In terms of changing windows and so on and so forth, I would love to do it. It was our long-term plan to do that. We cannot. We just do not have the money to do it. If anybody wants to look at our

accounts, he can. We had $104,000 loss last year. We just cannot afford it.

1200

Mr Brown: I appreciate you being here, Roger. I think you make the point, as other presenters have made the point, not just here in Sudbury but across the province, of the difference between landlords. The public sector is not required whatsoever to comply with guidelines while the private sector is. I am at a loss to understand why the cost between the two sectors should be that much different, and at a loss to understand why the government would not accept as a reasonable guideline what it is doing in its own housing. Would you think that would be an alternative for guideline, for the private sector to reflect what the public sector does?

Mr R. Hawkins: One of the concerns we have in public housing is that when you start to hire security firms 24 hours a day because you are putting a large group of people together in public housing and there is a lot of damage, lots of problems with public housing—and these are recorded facts—your costs are going to go up. When you have to hire untold maintenance crews and so on and so forth on a full-time basis to maintain these units, your costs are going to go up.

I am a humanist, I would say. If I have nine units, I am prepared to give two units over to public. Allow subsidy in the private sector. Get away from the ghetto complex. You want to be humanistic, then do not label people and put them into public housing ghettos. Work co-operatively with the private sector. Let the private sector have some public subsidy within its units and it will do it.

But you are not working co-operatively with Bill 121, and I will tell you right now, the property owners of this province are going to back off. They are angry. I am angry and I started out as a moderate, you all know that. I pushed moderation and I am angry. There is no co-operation here. We may not be enough to throw the NDP out of government but I will tell you, there are a lot of property owners whom I have talked to who are very upset, the vast majority.

Mr Brown: I think there is a growing anger in this sector. The signal this gives us is consistent with what the government is doing in a number of areas towards private enterprise in this province. And I get the sense this anger is far wider than just landlords.

Mr R. Hawkins: It is. I think that is a good point. I am also in the business community, because we are actually getting involved in the business sector to try and stabilize ourselves. And I can tell you that the feeling is the same in the business community. There is a reactiveness there. There was a sincere desire on our part—and you know that, I talked to you—to work together with the government to try and resolve the problems of affordable housing. You are not even touching it in 121. All you are doing is Band-aiding a bad situation. We wanted to work with you but you do not want to work with us.

Ms Harrington: First of all, when we came into government the rent review system that was in existence we believe was not working for the people of Ontario. It was a system that was being used and abused and we want to try to fix that. The second thing is that we do not believe this rent control legislation is the answer to the problems of housing in Ontario. There has to be a whole, much larger look at the situation and we have out now a working paper on Housing Strategies for Ontario. You are saying this is a Band-Aid. Certainly in some ways we are trying to improve the system we found. You are saying it has to have a lot of changes to it. I certainly do not agree with all you are saying, but I am saying that there has to be a bigger picture. We have to look farther and wider and we have to work with the business community, and not just in housing but in many other areas which you just touched on.

Mr R. Hawkins: I do not want a speech. I just want to say one thing to you. What really is happening here, and I think Mr Tilson and Mr Brown were alluding to it, is that you have broken faith with people who were going to give you an opportunity. I am also chairman of the property owners' association in this area, I purposely wanted to speak as an individual. I think the danger is you have broken faith with the little guys and the big guys who are dealing with housing in this province and that is the serious danger. Now I really sincerely hope the government can in some way regain that faith. If not, you have got a war.

Ms Harrington: That is up to the people of Ontario—

Mr R. Hawkins: And that is very sad and that is not going to help anybody and that is why we tried to be moderate initially.

Ms Harrington: I understand. I wanted to continue with a couple more points. You are very right in saying that we have to have a good policy. The government does not want to put forward a policy which is good for maybe a year, and then two and a half or three years from now, just before another election, it breaks down and buildings are not being maintained or built or whatever. That would be disaster for us and for everybody. So we are saying that we want a system that works.

We also believe that 80% of the landlords of this province have not gone to rent review for increases above the guideline. We recognize that those are the people who know how to manage their business and treat their tenants and maintain their buildings. That is all we want. We want fair profit rent.

The last thing is reality. You talked about reality of rental housing in this province. I think you do live in a real world, and part of that is seeing people out there in the city of Sudbury who do not get the 8% increase every year. They will have to leave those apartment buildings. You do not want, probably, tenants who are leaving. You want stable tenants who are there. What are we doing if we keep increasing—

Mr R. Hawkins: I have had tenants in my building for 15 years.

Ms Harrington: Okay, that is what we want. That will not exist if we have the cap above 8%. It will cause people to move.

Mr R. Hawkins: Unless you accept the reality that landlords are not making a great deal of money in this province on property. The average is a 3% return, and that is your figure. You have to deal with the issue of fair rate

of return. I am saying fair. I am not saying gouging. I told he minister the same thing—

Ms Harrington: I agree.

Mr R. Hawkins: If you want the property owners in his province, that pay a hell of a lot in taxes and provide a ot of jobs, to support the government, you better deal with air rate of return. If you are not going to deal with it, then ve have a problem.

Ms Harrington: I just want, lastly, to quote one sentence from the previous presenter and he says—

The Chair: We are well over time—

Ms Harrington: "Long overdue changes should seek a balance." That is what we are doing, this government, long overdue changes: "A balance between the basic needs of affordable shelter for tenants, with the corresponding need for landlords as providers of shelter." That is what we are working towards.

Mr N. Hawkins: Can I say something? I just want to make one comment. The impression is given that if a landlord goes to rent review he is a bad landlord. You said it yourself, 80% of people did not go to rent review; therefore, they are bad if they go to rent review—

Ms Harrington: No, I did not say that—

Mr N. Hawkins: But that is not true. So if 80% do not go and the other 20% go—okay, there are always bad apples in every barrel, so 1% went to rent review and are playing games with rent review. What about the 95%, 99% of landlords who have legitimate concerns with the cost structure in their building? If you do not get a rate of return, you are going to lose the building.

Ms Harrington: Okay, fair profit, yes.

The Chair: Thank you for your presentation. Ms Poole has a point she would like to bring up.

Ms Poole: I have a request for the ministry. We have had a number of presenters who have brought up the fact that Ontario Hydro is anticipating a 44% increase over the next three years. We all know that municipal taxes are increasing at a very rapid rate. I would ask the ministry to calculate the guideline amount for 1995 based on a 44% increase over the next three years for hydro, plus based on a 10% municipal tax increase per year, which I think is what many municipalities are running, plus whatever they might project for annual increases in heating and water, so that we can actually see whether these 44% increases are going to be covered in the guideline or whether landlords are going to be out significant amounts of money if it is not covered. So I would ask the ministry to provide that information before our hearings end in August.

The Chair: Very good, thank you, Ms Poole. We will ensure that information is put together and distributed to all members of the committee. The committee stands adjourned until 2:15 this afternoon.

Mr Tilson: Chair, before you declare it, I understood there was some time today when we were going to have a discussion with the ministry staff. That is wrong?

Ms Deller: Sorry, that was changed to the 19th.

Mr Tilson: That is next week?

Ms Deller: Yes.

The Chair: We stand adjourned until 2:15 this afternoon.

The committee recessed at 1210.

AFTERNOON SITTING

The committee resumed at 1420.

The Vice-Chair: Good afternoon. The business of the committee this afternoon is to conduct public hearings on Bill 121.

KEN KALTIAINEN

The Vice-Chair: Our first presenter will be Ken Kaltiainen. Ken, you have 15 minutes to make your presentation. If you wish to reserve some of that time for conversation with the committee, that would be appreciated. If you would identify yourself for the purposes of Hansard and help me with the pronunciation of your name.

Mr Kaltiainen: My name is Ken Kaltianen. I am a middle-class, middle-income constituent of this province. Since last summer after the election I have been monitoring and forced to monitor this government as to what it was doing. If I were to grade this government over the last 14 years I have been able to vote—congratulations, you have flunked. You have failed me, my family, my kids and myself, our future. I have worked 14 years here in the industry I am in. In my industry, working for draughtsmen and architects, there ain't no pension plan and there ain't no life insurance. There is no dental plan. So instead of buying a house, I saved and scrimped every penny I could find. What did I do? I bought a building.

I knew there were rent controls. I said, "Rent controls ain't so bad," and I put my money in there. As you heard from my presentation on Bill 4, and as I am here to tell you now, if you pass Bill 121 the way it is, myself and a whole pile of other landlords are going to go under. I would like you to go tell my kids why we have to move out of our house and rent from somebody else, and possibly the government, because as one Bill 4 member said, "You made a bad investment." No, I did not make a bad investment. I made an investment under the legislation at that time and you guys keep on changing the legislation. Very rarely have I seen this problem in Alberta, where I practised, where I learned my trade for 12 years, because I could not learn it here.

I was talking to my father the other day, who is a businessman in Sudbury here. He has been a businessman here since he was 16, since his father died. We had an interesting chat. He compared the NDP government to the federal PCs.

Ms Harrington: That is scary.

Mr Kaltiainen: Well, the feds gave us free trade. The NDP has given us a $10-billion deficit. Who is going to pay for that deficit? Me. I am the guy who is going to end up paying for it. You cannot go tax the welfare guy. He has gone fishing. You are not going to tax the rich guy, the guy who has 2,000 or 3,000 units or the guy who has a $2-million or $3-million company. He has the accountants and lawyers to fight these tax credits.

The feds gave us GST. What has the NDP given us? A middle-class dictatorship. This is the investment. You guys are going to buy buildings you can rent and develop and make a profit? Hell, no—profit is a dirty word. You cannot recoup your losses for rent repairs. I built a ramp beside my apartment building because the tenant that was there could not get out of his apartment because he was bound to a wheelchair, and he could not get into social housing. He told me he has been on the list for three years. I have owned the building for two prior to that. I built the ramp with my own money. I went for assistance. They said: "Yes, there's federal grants. Go get them." But they freeze the rents on that unit and every unit in the building. So instead of seeing this gentleman fall down those stairs again and get all scraped up, taken to the hospital and mucked up again, I built the ramp on the weekend, myself, with my money and my labour and I did not raise his rent one penny. That is a special case. I would not do that with everyone.

I would like this government to talk to the people from Caterpillar who lost their jobs, pass-the-buck government saying, "Oh, it's the federal government that did this." What is the Ontario government doing about it? I will tell you: diddly-squat. Talk to the people here at Neelon Castings in Sudbury who are losing their jobs, and every other manufacturing job in Sudbury. What are you guys doing? Next to nothing, as far as I am concerned.

I call this a pass-the-buck government. I keep hearing: "Well, it was the previous Liberals. It was the previous PCs. The federal government is doing this here." The arrogance of this government makes me sick. I am going to tell you something here. In the Bill 4 hearings I watched damned near every one of them, and this governing party had the nerve to comment on a group's registered name. It had something to do with a multiple-family housing authority or something like that. You questioned his business name. Look in the Bill 4 hearings. You will see it. I think it was out of London. Well, I am going to question your name, the NDP, the New Democratic Party. This is not "new." This is an economic disaster. This is something that most economists will tell you is terrible. Who is going to pay for this debt? I cannot afford to keep paying for all the welfare cases in Sudbury here and seeing my taxes go up. This is not "democratic;" this is communist; this is a dictatorship. The eastern bloc is trying to become a capitalist organization. What do we do here? You do not get diddly-squat. They say: "Oh, you made a bad investment. Sorry, we're the NDP government now. That's the previous government. Don't worry about it." That is sickening.

I would like to know how many people here in this government were in private enterprise before they came into this government. How many people were even landlords? I will tell you something. My grandmother built a building here in Sudbury, in 1939, by herself, with a child that was six or seven years old. Right now that building is under rent control. And do you know what? I told my dad when it gets empty to leave it empty, because it is not worth fixing it up. I work for architects. I could tell him exactly how to fix it up, where to fix it and what to do to make it look nice, but what for? The rents in there do not even cover the bloody taxes. The God-darned land is

worth more than the buildings, and you know what? It is a bloody eyesore, that building. It was one of the first buildings on that street in that area. They had to bring power down to there. I am not going to tell him to go down and fix it up. I will say, "Don't. Lock the damned thing up. Burn it if you have to, even though it's against the law." What is law? We see the law changed every year. Maybe it will be legal next year, right?

There is another reason why I did not submit anything in writing this time. I did in Bill 4 and did a lot of research. I am in the construction industry. I know. I did not submit anything here because I did not want to spend the money on the paper. I want to start to save my pennies because I do not want to lose my investment. I do not want to lose 14 years of my life because one government decides landlords are a dirty word. You go talk to any one of my tenants and they will tell you Ken shows up at their place at 2 o'clock in the morning for whatever the scenario will be. There is something broken? He fixes it. Yes, we have bad landlords and bad tenants, but we do not have a $5-million expenditure here like the Sudbury Housing Authority.

I do not understand this. I am a small guy. I am not very powerful here. Yet, I have the Minister of Northern Development and Mines right here in Sudbury. I would like to know what business it is of hers to go down to talk to a tenant group. Has that got anything to do with mines and economic development? No, a Mines minister? That has diddly-squat to do with the mines, yet will she meet with us as landlords? Will she meet with me? I will tell you right now that I am SOL. That is the kind of standard I do not like.

We had a group here in Sudbury, the Sudbury District Property Owners Association, which did a review of Bill 121 and gave some feedback. Did you see the garbage that came out? Why would I submit copy on Bill 121? You guys do not even read the stuff when you ask for feedback. This here is all a joke. This is ridiculous.

Bills 4 and 121 are supposed to help the housing crisis. Do you know that in Sudbury here yesterday the local CMHC office released a piece of news information, a mini-bulletin, that 30% of Sudbury's renters can afford houses in Sudbury? Why the hell would I want to go out and buy a house when my landlord is going to cut the grass, paint the walls, fix the plumbing and shovel the driveway? I can go out and buy a snow machine or a boat and go fishing or camping. I can go out to Florida. I have tenants who were in my building who have since moved up in buildings. They go to Mexico every year. Boy, I ought to sell my buildings, take the loss and go on welfare and I would go to Mexico every year too. Would that not be nice?

I would still like to know how we are going to pay for this $10-billion deficit. Hell, we have a federal government that has some $30 billion, and they cannot even pay for it. I think most of you guys are in la-la land, to tell you the truth.

Then the previous Housing minister puts out a news release saying that people should build apartments in their basement. Why, if I had a house, should I build an apartment in my basement? So I can become a landlord and fall under Bill 121 too? So I could lose my house because some stupid tenant is going to say, "Your garage is not up to snuff here"? Why, as a householder, would I want to help out the housing problem? I just got the hell out of an apartment building. Why should I want to help out the housing crisis? That is the government's job.

One member over in the NDP government asked me, "Don't you think it is a human right to have a place to live?" Damn right it is a human right to have a place to live, but do you not think that it is a Canadian right to own property and not lose your shirt because the government is forcing you to, regardless of what level? I ask you that. How would you like it if I changed the law on you guys and said: "All MPs who own houses, too bad, you now have to go rent. We'll take your house. Oh, profit? You put a down payment? Too bad; you lose it." Is this not the same thing?

And then I hear that the NDP government is doing things the other governments were afraid to do and say, "We're doing what the people want us to do." Horse puckies. If that is what you think, call an election and let's see what the hell people have to say now with truckers' tax, gasoline tax and a changing insurance policy. Insurance: Are people so stupid that when they go to get insurance on their vehicle, they do not read their policies? Not all of them do, I grant you that. But do they not go shopping? If you have to shop for a new pair of shoes, do you go in the first store, buy the shoes and take off?

You guys have to open your ears a little bit, give your heads a shake and see if there is anything in there. This is ridiculous. I did a nice presentation on Bill 121. I was going to give you all kinds of facts and figures. But after 30 typed pages of stuff, forget it. So if you guys think you are doing the right thing and that this is what the people want, call an election. Do like the Peterson government did and see if this is what the people really want. I will answer your questions if you have any.

1430

Mr Tilson: Yes, sir, I seem to recall that you spoke at the Bill 4 hearings, and you are the accountant or one of—

Mr Kaltiainen: No, I am a draughtsman. I work for architects.

Mr Tilson: You went out west and then returned to Sudbury.

Mr Kaltiainen: Yes.

Mr Tilson: And you also indicated this morning that you are in construction or have some connection with the construction business.

Mr Kaltiainen: Yes, I do. You cannot be a draughtsman and work for architects and not be involved in the construction industry.

Mr Tilson: It is in that line I would like to ask you a question. You touched on the issue of employment, and our party has certainly been submitting that there have been unbelievable job losses as a result of what led up to Bill 4 and subsequently, and now there are going to be more job losses because of what is leading up to Bill 121 and after Bill 121. Of course, Mr Cooke's response to those sorts

of statements is: "Oh, well, there's a recession going on. It's the feds' problem. It's the goods and services tax," as you said. I would like if you were able to comment and connect any of the job losses, which I am sure there are in the north, to the government's housing policies.

Mr Kaltiainen: For every unit built, there are 58 trades. You would read this in my Bill 4 submission. There are 58 trades directly affected every time you build one unit. The private sector here is still building units for $40,000 a unit. The figures are out there. The government is building for $120,000 to $130,000. The figures are there to back it up. Go check the Ministry of Housing right here in Sudbury; go check CMHC. They will tell you. I know. I certify the progress claims.

The jobs that are being lost right now are not in new construction; they are in renovation: guys replacing windows, doing wiring, plumbing, siding, brick, paving, landscaping, carpets, cupboards. You name it. Anything you can touch is being lost. When you put something like Bill 121 or Bill 4 or any one of them that has to do with limiting the money that can go around, you are dead.

Mr Mahoney: I remember your presentation last time on Bill 4 and how it was fairly calm, if I recall correctly, and well-thought-out and well-presented. As we saw this morning, there is a great increase in the stress level. I guess it is because you feel you were told there would be some solutions in the bill to the problems that had been created in Bill 4, such as if you were caught with any of the capital problems, that type of thing, and none of that has occurred, so it is a pretty clear betrayal by the government. They attempt to sort of lull you to sleep by saying, "We're going to look at it." In fact, we are hearing that from the parliamentary assistant in these hearings, "We're going to look at amendments and things of that nature." It would appear those amendments are going to fall on deaf ears, and we have a number of them that we will be putting. You have to make a business decision. Are you getting out? And if you are, how do you extricate yourself?

Mr Kaltiainen: No, I am not going to get out. At one time I stressed that I was going to pack everything up and go back to Edmonton, where there are no rent controls, and, hey, boom time. We never had a problem. They are in a lull there right now. They just are not up. They still do not have a problem. The reason they do not have a problem is that they are properly legislated. There are no rent controls but there is a rent regulation act, which is not the rent controls we have here.

I am going to stay here and I am going to fight like hell to keep what I have at all costs. I tell you, Ms Murdock, when the next election comes you are going to hear from me and my neighbours. I have neighbours either side of me, they had nice big NDP signs last year. You talk to my neighbours now. They have not got very much to say about you people right now, not much at all. I am going to hang on any way I can. This is one of the reasons I say I had to make a submission here because, with the majority government—Mulroney said it best: "Who cares? They can't bump us out of power. We've got a majority." You see this every time you watch the legislative channel.

Ms Harrington: When the next election comes we will all take what is due us and every politician knows that.

Mr Kaltiainen: You betcha.

Ms Harrington: I am trying to speak. Second, we are here because we are looking for amendments to this bill and we are here to try to find out what is really happening up here. I want to ask you a question, but before I do I just wanted to point this out to you. I just found this in the lobby of this hotel and it is called Northern Ontario Business, which is August 1991. You asked me the question, "What is this government doing for northern Ontario?" or something similar to that. The answer, part of it, is right here. "The provincial government's $700-million anti-recession program is helping keep Ontario's economy afloat during tough times, according to two economics professors at Laurentian University in Sudbury." What he actually said was "The program puts funds in the hands of consumers and helps fuel the economy." It has a map of northern Ontario and it shows that over 30% of the anti-recession money is coming directly to northern Ontario. That is what the deficit is about. My question to you, sir—

Mr Mahoney: On a point of order, Mr Chairman: It is all well and good to hear the defence by this government's parliamentary assistant, but I think it is irrelevant to Bill 121 and that is what we are here on.

Ms Harrington: Sir, the gentleman—

The Vice-Chair: Continue, Mrs Harrington.

Ms Harrington: Thank you very much.

Mr Mammoliti: On a point of order, Mr Chairman: I sat here and listened to the presenter and he asked specifically what we are doing. She is responding to that. If anybody is out of order, it is the person who spoke previously to me.

The Vice-Chair: Mr Mammoliti, I had indicated that Mrs Harrington could continue. The Chair has given the speakers a great deal of latitude within the time frame, and it is time for Mrs Harrington to place a question.

Mr Mammoliti: Thank you, Mr Chairman, for listening.

Ms Harrington: The very important subject at the base of your concern is the fair profit we want for landlords. What do you feel should be a fair rate of return for your investment?

Mr Kaltiainen: First of all, I am going to clarify my statement to you when I said you are doing nothing for me: I am talking as a landlord. This is what we are talking about here, Bill 121 and I do not mean Bill 4—

Mr Abel: You said for the province.

Ms Harrington: You were mentioning broader things.

Mr Kaltiainen: All right, now, a fair rate of return. If you were to go to a bank, what would they say a fair rate of return would be? Would you not like a fair rate of return equal to a bank, whatever the interest rate would be?

Ms Harrington: I am asking you as a landlord what you think a fair rate of return should be.

Mr Tilson: Give him a chance, he is trying to answer.

Mr Mahoney: Say anything.

Mr Kaltiainen: No, anything—they are giving me zero. A fair rate for return for me that I could scrimp by at

a minimum would be 5% or 6%. I would like to see the same as a bank. If a bank is getting 12% I would like 12%. Why else would you go and invest in a building? If a building can only give you 2% or 1% return, why would you put your money in a building? Put it in a bank. It makes economic sense, does it not?

Ms Harrington: Just a clarification on that.

The Vice-Chair: I have been quite lenient.

Ms Harrington: We are trying to get at the basis of this. You said 5% a year and that does not include any return at the end when you sell that building? That does not include capital?

Mr Kaltiainen: Give me a break.

Ms Harrington: No? Does it include it or not?

Mr Kaltiainen: No, 5% every year. When I sell that building, that is my retirement fund and that is also a fund I can help my children go to a university or a college. That is what that building is for, okay?

Ms Harrington: I am just trying to get it clear.

Mr Kaltiainen: It is another business. You do not go into this thing because you have financial help in every department, health, medical, life insurance, collegiate funds—

The Vice-Chair: Thanks, Ken, the time has expired.

1440

KINGSWAY VILLA LTD

The Vice-Chair: The next presenter is Guy Carpenter, Kingsway Villa. Good afternoon, Mr Carpenter. We are pleased to have you before the committee. You have 15 minutes to make your presentation. The committee always appreciates a little time being left so that it can discuss the presentation with you.

Mr Carpenter: I have no problem.

The Vice-Chair: If you would introduce yourself and your organization.

Mr Carpenter: My name is Guy Carpenter. I am one of the directors of a company called Kingsway Villa Ltd. This company owns and operates mobile home parks in the region of Sudbury. I am here today to voice my opinion of the new legislation being proposed. I own a park located in Sudbury which contains 63 mobile home lots. These lots are subject to the Landlord and Tenant Act as well, thanks to Bill 4. The passing of Bill 4 has also put mobile home parks under the rent regulations act or clarified it.

Each of these mobile home lots contains a sewer system which comprises a septic tank and a field bed. This park was built over 30 years ago. We bought this park knowing there would be problems. What we did not plan on was the government stepping in and changing the game plan for the whole rent review system. I feel mobile home parks should not be under the Landlord and Tenant Act or rent controls, due to the fact that there are a lot of different expenses involved, such as maintaining sewer systems, hydro, stuff you would not run into with an apartment.

A few of the septic tanks in our park are now in a condition of disrepair. The health unit, by doing its job, has informed us that this system must be fixed. To correct the problem, we have applied for permits to fix them but in the last 20 or so years the rules towards septic systems have changed considerably. One of the most significant changes that affects us are the lot sizes required, as well as the distance now required from different things, such as ditches, buildings, sheds, water courses, etc.

Due to the fact that these lots do not comply with the rules set out today, it forces the health unit to deny permits to fix these lots that are in disrepair. But due to the political and social implications of denying the permits and with a little persuasion from an MPP such as Shelley Martel, the health unit tried to find an alternative to denying the applications, knowing that if the applications are denied the lots would have to be closed and people would be homeless, because in Sudbury there just is not any place for these people to go.

So the health unit is forced to find another solution to the problem. In doing so, they force us to put good money over bad and obtain an engineering study for the park. This study suggests ways to rectify the problem. One of the ways in the report which the health unit liked was the building of a private communal septic system as opposed to individual septic systems. Such an endeavour is not without cost. This solution is estimated to cost about $500,000.

We tell these people that we do not have that kind of money and they say they do not care, but order us to find the money and to do the work or face consequences. With the fact that we own lands and no buildings—we are just the owner of the lands—no institution will lend us the kind of money needed to effect the repairs. Even if we could borrow the money, this new legislation makes it impossible to pay it back because the biggest legal increase obtainable is the rate of inflation plus 3% for capital expenditures.

Basically, what happens is that the people in this park pay $147 a month for their lot. People paying $147 a month would receive an increase of a maximum of $13 to cover the rate of inflation as well as the costs of capital expenditures.

The 3% allowed for capital expenditures is roughly $4 per unit; $4 times 63 units comes out to $277, so that is what they propose we can get per month to pay for these capital expenditures. But if you were to borrow $500,000, the payment per month, amortized over 25 years, would be $5,000, and $277 out of $5,000 is quite impossible to pay back.

It leaves us with no choice but to close the park, putting 63 people on the street with nowhere else to go, because like I say, in the region of Sudbury, there are bylaws preventing new parks from opening, and there just is not any place for them to go.

I have had conversations with Shelley Martel on the subject, and the NDP government is standing firm on its policies that the landlords are nothing and they deserve to pay. In a phone conversation with her, she was pleased to see what was going on and even advised me that she would make sure we did effect the repairs rather than close it.

Due to the fact that we cannot afford to fix it, we proposed that the park would have to be closed. Now the health unit, as well as Shelley Martel, not liking this solution, organized meetings with the Ministry of the Environment to apply pressure to have the disrepair fixed. The Ministry of the Environment in turn has now charged us with several

counts under the Environmental Protection Act due to the fact that the sceptic systems are not fixed. Now we are supposed to go to court next month, as a matter of fact, facing over 79 charges under the Environmental Protection Act.

The permits applied for were not denied but were not granted, so basically right now we do not even have a permit to fix these if we wanted to, yet they are still laying charges against us. It is a very complicated situation.

Mr Tilson: No, it is pretty clear to us.

Mr Carpenter: They do not like the idea of the park closing because it is a political and social issue, so to apply force they pull in the big people, the Ministry of the Environment, and this is a very touchy issue these days.

They will not allow us to fix it by granting us permits, but because it is not fixed they continue to charge us under the Environmental Protection Act because the systems are broken. Basically our choices are clear: Either we try and find the money and go bankrupt, because like I say, there is no way to recoup that money with this new legislation—$500,000; there is just no way we will ever get it back. The alternative to going bankrupt is to spend the rest of our lives in court or in prison, whichever comes first.

Mr Tilson: Wait till they pass Bill 70.

The Vice-Chair: Mr Tilson.

Mr Carpenter: I am not an expert at this stuff, but I am directly affected by this legislation, due to the simple fact that if I were to find the money there is no way I could ever recoup it. My choice is to close the park, which again, the social and political aspects of it are just not very good.

Another thing is that this legislation is designed to help the tenants from so-called evictions because they cannot afford it, yet the NDP government does not take into consideration the landlords. The only thing we have to govern ourselves by is the Landlord and Tenant Act. But this act is not even worth the paper it is written on, due to the fact that there is one clause in the act which states the judge can alter any decision or make his own decision on any ruling. Whether the law states that you are allowed to do it, the judge can just turn around and say no.

As it is now, we are in court over problems with this park. One person has built an addition over top of his septic system, making it impossible to fix it. How do you work under a 20 by 16 mobile home? It is impossible.

We have made applications to court under the Landlord and Tenant Act because this guy has breached the act by building without permits, etc. A judge finds that it would be unfair to evict him because he has no place to go, so basically he will not evict him so we can fix it. There is nothing that helps us any more. All this stuff is just helping the tenant more and more.

1450

We even had a case where a tenant re-rented his apartment to somebody else. They never contacted us or anything else. We showed up two weeks later because the rent was not paid, and these people said they were the new tenants. We called the police to have these people removed as trespassers, and the police said they have no right: The Landlord and Tenant Act governs. You have to make an appearance in front of a judge and let a judge decide. But whenever we end up in front of a judge, the judge feels it is unfair to evict people, so we lose all the time. We have no rights left. People can just move into our apartments without even asking.

There are no fair laws any more, and this is not going to make it any better. This is just another way of forcing people into bankruptcy or, like the last speaker said, turning things into a communistic government that wants to control everything and does not want people to have rights any more.

That is basically all I have to say.

Mr Mahoney: It sounds like you have had a rather stormy relationship with Shelley Martel, to say the least.

Mr Carpenter: Yes I have, to say the least.

Mr Mahoney: A couple of things: You made what appeared to me to be an accusation that there was interference or influencing of some sort by Ms Martel with a local health board.

The second part of the question is, can you tell me what the tenants are saying in your park, facing the threat of having the park closed and not having anywhere to live? I would be particularly interested in your expansion on the Martel situation.

The Vice-Chair: Guy, before you respond to Mr Mahoney's question, I should just point out that while all members of the committee have immunity, the witnesses before the committee do not.

Mr Carpenter: Basically, to elaborate on what is going on, I have been speaking to Shelley Martel, and she has informed me that she is following all correspondence to do with this affair with the health unit. Anything they write up or send me, they forward her a copy of as well. She is keeping up to date on what is going on.

There has also been talk that she herself has had a meeting with the health unit as well as the Ministry of the Environment in her office at the Ministry of Northern Development and Mines, as well as with one of the tenants in the park. I am not sure exactly what happened or whether she was participating fully, but she is showing a great interest in what is going on.

As for the tenants and how they feel about leaving, they have been reassured by several organizations that there is no way in hell they will have to leave. One person, who has been given an eviction order due to the fact that we cannot fix his system, has gone to the point of building a new deck, resodding his yard; he has done major renovations to his trailer. After receiving an eviction order he is still doing all this work because he has been assured by different agencies that there is no way we are going to kick him out. And it is true: You get in front of a judge and a judge cannot, with a good conscience, throw these people out, so we are stuck with them.

Ms S. Murdock: Getting back to Bill 121, rather than the Landlord and Tenant Act, you have made your position and the facts of your case really clear, but I am interested in knowing whether all the things you have described have happened in the last 10 months, or has this been an ongoing thing prior to the election of September 1990?

Mr Carpenter: As far as problems in the park go, I guess you could consider it an ongoing matter, but this legislation now makes it impossible to correct the problem, due to the fact that there is no way you can recoup money spent to rectify it.

There is much more maintenance required in a park as compared to an apartment. We have one park where we just spent $20,000 in upgrading the hydro, and we have no way to recoup it. At $147 a month, it barely pays the taxes and the insurance as well as the upkeep. There is no extra money now, so it is impossible to do these types of renovations.

Ms S. Murdock: When did you pay the $20,000 into the park?

Mr Carpenter: This has nothing to do with this park directly, it is another park we owned. When we purchased it, Ontario Hydro assessed all the lines and said it was inadequate for the loads that were in it, and thereby gave us an ultimatum: Either put the repairs into it, or face disconnection.

Ms S. Murdock: Okay, but what I am hearing is—

The Vice-Chair: Thank you, Ms Murdock. Mr Tilson?

Mr Tilson: Of course, we know there is a judicial decision which put mobile homes back into the legislation. We know that Bill 4 then passed a law to get around that saying that it is in there.

You are at least the third delegation that has come to this committee on Bill 121—I think there were two tenant groups expressing similar concerns but from a different perspective, but also acknowledging that this type of home project should be outside the legislation. Everyone is agreeing on that.

The parliamentary assistant now says, of course, there is an interministerial committee studying the subject, and it has been going on for some time. You have answered that you are probably going to go under, that you are probably going to close your place. I assume you keep in touch with other mobile homes because I know there are associations around the province.

My question is more of a provincial nature. If something is not done as a result of new legislation, and this problem that you have described, which was described in the Bill 4 hearings, continues, what is going to become of the mobile home owner, the people who own the park and the people who own the individual units in this province?

Mr Carpenter: I cannot speak for the whole province because I do not know what their situations are but as far as this section goes, there are several laws governing mobile home parks, such as city bylaws that state you cannot open new parks. Most of these people would probably gladly pay an extra $30 or $40 a month to have the system fixed, but with this new legislation, it makes it impossible.

For these people, once evicted, their only choice is to go out and buy a piece of land outside the region for $20,000 or $30,000, and put a system in, a well. They are almost better off just to burn their mobile homes and buy houses. They are talking the same kinds of costs. The reason these people are there is because they cannot afford much more. It is a low way of living.

Mr Tilson: They also cannot move.

Mr Carpenter: That is it. There is no place to go.

The Vice-Chair: Thank you, Mr Carpenter. We appreciate your presentation.

BARBARA CARPENTER

The Vice-Chair: The next presenter is Barbara Carpenter.

Mrs Carpenter: I am Mrs Barbara Carpenter. I am a landlord. My husband and I have been in the business for 28 years. This business is our only source of income. Approximately 50% of the landlords across Ontario are husband-and-wife operations. This is a 24-hour-a-day job and seven days a week. It takes a special person to be a landlord.

Sudbury was always a boom-and-bust city, mainly a one-industry place, until about seven years ago when Sudbury began diversifying.

In 1989 I purchased a building built in 1900, consisting of 15 units right in downtown Sudbury. For two years we remodelled the units one by one and spent over $400,000 in repairs placing four newly constructed entrances on the unit and remodelling each unit inside, nothing luxurious.

We applied on October 2 for our capital cost expenses which were legal at that time. Our period ran from March 1989 to February 1990, but the NDP government took over and they retroactively took away all capital expenditures with Bill 4 and the two-year freeze.

We applied to the rent review appeal board and asked to retroactively back up our application and be heard, since there were no tenants in the building. As of today, we still have no hearing and the building is still empty awaiting their decision.

I cannot see why, if the government can act retroactively, a landlord is not able to do the same.

Under Bill 121, they stated they will only allow a 3% capital cost allowance. Well, try getting back $400,000 capital with a 3% cap for one year when your units rent from $140 to $172 per month. How can you pay back a $400,000 loan with an increase of $4.20 per month, or $50.04 times four units equals $201.60 per year, on a one-bedroom 750-square-foot unit; and an increase of $5.19 per month, or $62.28 times 11 units at $685.08 per year, on a two-bedroom 900-square-foot unit.

This $685 plus $201 equals an increase of $886 per year. It means nothing.

1500

This $886 per year increase does not even cover the interest on the $400,000 loan for one month. The $400,000 loan at an interest rate of 12% would be $48,000 interest in one year or $4,000 per month interest. Tell me how this $886 per year increase is going to pay for the interest of $48,000 on this mortgage, let alone the principal.

I can tell that you people have never been in business before and do not know anything about business. You want the landlord to subsidize all tenants, but it is the government's responsibility to aid people who need the extra money to pay for the rent and the people working to pay for their own fair share of their living accommodations.

A couple bringing in over $8,000 a month and paying $172 per month rent on a two-bedroom unit—this means they are only paying 2% of their income in rent. No wonder

they will not move into their own home and leave the units for more needy people. This is why 75% of the people are living in apartments across Ontario, the highest in Canada. No wonder they can go on Caribbean cruises and buy expensive cars and luxury furniture at the expense of the landlords, while we slave away trying to keep our heads above water—just to float.

They call this a democracy. Well, I certainly do not call it that. The NDP government only looks at one side of the coin. Please take a good look at the other side.

There is another point I would like to bring to the attention of this committee. They have taken legal expenses away. Why is it that a tenant can have a legal-aid lawyer paid by the government to fight against the landlords? Landlords need lawyers to go before the judges or the courts will not listen to us. We have to pay hundreds of dollars for a lawyer to defend our rents not paid, extensive damages on our units and trespassers taking possession without our knowledge and having to go to the courts to remove these trespassers.

If you do not want to allow us our legal costs, then I believe we should also have a lawyer paid by the government to assist our needs. Legal aid lawyers state they do not help landlords, just as the NDP politician, Floyd Laughren, personally stated to me, "We have never helped landlords and we will never help the landlords of Ontario."

We are a very necessary business in Ontario and yet the NDP government will not give us consideration. I do not call this a democratic government. It is pretty bad.

Another point I would like to bring to your attention. Get rid of the ghettos of Sudbury, like Rumball Terrace and Waterview Gardens, with the same people all in the same buildings which require 24-hour policing and protection. The government has 1,900 units here in Sudbury. They spent $5 million in general repairs looking after these units for one year. This does not include capital expenses. It is all right to dig into the taxpayers' pocket and take away this money from them, but it is not right for a landlord to make a living looking after his own buildings.

If you average it out, it runs at $2,500 per year per unit run by the government. As a private landlord, we can keep our repair expenses down to $250 per year, not including capital cost, yet they say we do not know how to look after our buildings, that we are not business people.

Does the NDP government want to become another East Germany and control all property, and put the people of Ontario into poverty? I can certainly tell you that you are heading in the right direction. I think the government has suppressed the landlords long enough. We have been suppressed since 1975 and they are suppressing us deeper into the ground every day. Where is it going to stop?

[Interruption]

The Vice-Chair: This is a committee of the Legislature, and interventions are not permitted. The first question is from the New Democratic caucus. Ms Harrington.

Ms Harrington: I would like to find out a bit more about your particular situation. We have not received anything in writing from you at this time, have we?

Mrs Carpenter: Yes, I presented on Bill 4. You were not on the committee that day, but you talked to me personally after.

Ms Harrington: In Sudbury?

Mrs Carpenter: No, in Toronto.

Ms Harrington: Okay. I just asked if you had something today.

Mrs Carpenter: I have presented in Toronto.

Ms Harrington: Okay. We will try and get hold of that, then, to look at it again. You asked at the end what we wanted and compared us with East Germany or whatever. I would like to go on record, as I have before, and try to very briefly say what this government wants.

When we came into office, we had had the RRRA since 1985, which was a rent review system, a complete pass-through so that any expenses could be passed through to the tenants. This system was being used and abused in very many ways. It was a very complex system and inefficient. It was a problem for small landlords as well as tenants.

We are trying to bring into this province a system that is going to work. I have said this before and we mean it. We want landlords involved to be able to make a fair profit. I have asked the previous presenter what he felt was a fair profit, but I would like to find out a little bit more about your particular situation. You say you have been in the business for 28 years with your husband. With regard to the building you bought in 1989, you have said that the rents range from $140 to $172 in that building.

Mrs Carpenter: Yes.

Ms Harrington: How many units is that?

Mrs Campbell: There are 15 units.

Ms Harrington: And it was a 1900 building?

Mrs Campbell: Yes, it was built in 1900. The city owned it for almost 15 years. They had it up for demolition. They were going to use it as a road allowance and they did not use it. Therefore, they did not put in any repairs for those 15 years. They did not put a cent of repairs into that building. It was ready to collapse. We took it over because you cannot demolish an existing building to put up a new building. Therefore, we took on the responsibility, due to the legislation that we are allowed our capital cost expenses if we remodel a building. Therefore, we did it.

Ms Harrington: I want to tell you we have run into this same type of situation where you have an almost historic building—I do not know if it is still historic after 15 years of neglect. I have run into this in Kingston, which is a very old city. They have century buildings. Just this week in Toronto, a man from Belleville was presenting. He had put $600,000 into a building that was built in 1867. What I told that man was that because he had a historical building designation, that, in my view, was somewhat of a special case and I would be speaking to the minister about these older buildings. They do not need just maintenance; they need total renovations.

Mrs Carpenter: That is right.

Ms Harrington: I was going to ask you about your other buildings, because obviously you have other buildings, to find out what that situation was.

The Vice-Chair: Thank you, Ms Harrington. Mr Tilson.

Mr Tilson: I think certainly the way the Bill 4 hearings, as you have suggested, and these hearings are going, the socialist government does have a closed mind. I doubt very much if the legislation will be substantially changed, if at all. As a landlady, what do you think will happen to the standard of maintenance and repair in your buildings as a result of both bills?

Mrs Carpenter: My husband has put down his tools and has said he will not work any more. He says he has worked hard seven days a week. We never had a holiday in 25 years and we looked after our buildings. Right now, my husband has put down his tools and has said he will no longer work for the province of Ontario.

Ms Poole: Mrs Carpenter, thank you for coming again. I remember your presentation quite clearly when you came to Toronto. I think it moved quite a few of us. You were very distraught at the time because this was your last desperate plea. I believe at the time you said you were going to lose your life savings because of Bill 4.

Mrs Carpenter: That is right.

Ms Poole: I think you have heard about what measures the government has put into Bill 121 to deal with those caught under Bill 4. Is this going to make any difference to you?

Mrs Carpenter: No difference whatsoever. I have lost that $400,000.

Ms Poole: You have lost your life savings and you just cannot continue on?

Mrs Carpenter: Yes.

Ms Poole: You have our sympathies. There are amendments the government has said it is going to be looking at. We can only hope those amendments will ultimately help you.

Mrs Carpenter: I only wish they could set up a committee and say, "Let's look at each private person and look at his needs." Why can there not be a committee set up to look at each individual person? I know it is going to be a big expense, but you are putting landlords into bankruptcy. Why can you not help us as you help the tenants?

Ms Harrington: Just as a point of clarification, in the bill there is a suggestion put forward to have an advisory committee on rent control. That would be similar to what you are asking for.

Mrs Carpenter: But is it going to help us?

The Vice-Chair: Thank you, Mrs Carpenter. We appreciate your presentation.

1510

AL DAVIS

The Vice-Chair: The final presentation for today is from Mr Al Davis.

Mr Davis: My name is Al Davis. I am a landlord and I just want to let you know at the outset I am a very angry man. I have in Sudbury a 15-unit apartment house with four commercial units in it. This is the correspondence on this year's review alone. I work for nothing. Just under a year ago, I submitted an application for a whole-building review and I still do not have a decision. My next rent increase must be presented to the tenants on or before September 1 and I still have no base to make that increase on. Even if I just use the 5.4%, I have no base to apply that 5.4% to. In the meantime, I have had to borrow $30,000 to keep the building open.

One wonders whether it is the plan of this government to put small landlords into bankruptcy in order to be able to take over the buildings for free and run them as a public facility. For this small complex I have spent many unpaid days working on this submission, plus four trips to Sudbury from Massey, where I live, and finally incurring very heavy accounting costs. I do not think I am a stupid man, but the rent review service has made it so complicated that I had to obtain professional help.

After rent review had my submission for 11 and a half months, I received, on August 2, a letter saying, "I am directing you to file the following information on or before August 6, 1991", and threatening that if I failed to do so, my claim would be disallowed. With the long weekend, that gave me one working day to do a whole page full of—

This is a totalitarian attitude. One would expect this in Russia, but is this not Canada? It is a pity I cannot apply the same attitude to my property taxes, which have increased by 43% since January of last year and no allowances in the rent yet. Governments do not have ceilings put on their increases—the impudence and hypocrisy of us as Canadians. I have just come back from the eastern European countries as a volunteer consultant telling them how to organize free enterprise. I come back here and I am ashamed of what I did over there, because we do not have free enterprise.

The act also seriously discriminates between different landlords. Those whose rents are net and the tenants pay for their own heat, hydro, and other utilities can live with the guideline percentage as long as the property taxes do not go through the roof. However, those like ourselves who supply all services and utilities and include it in the rent are faced with increases and GST from heat, gas, hydro and other costs, some of which are in excess of 20% since January 1, 1990. Rent review tells us that we can collect the additional back rent to December 1, 1990, if our application is approved. How? Will they collect it for us? Will they track down the tenants who have left during the year? Will they pay our legal costs and collection costs? Will they bail us out of our financial difficulties?

I got into this business to provide for my retirement, but now that I am over 65, I have to work to avoid bankruptcy, by decree of my government. Mr Rae has indicated that he will, during his term of office, increase the minimum wage in Ontario to $7 an hour. Will he also increase those for landlords who work for nothing sometimes?

Now I have got a few horror stories allowed by the act. Surely something can be done to eliminate the discrimination against landlords in this act, which some lawyers have referred to, to me, as the most incredible piece of modern legislation they know of. As you are no doubt aware, if a

tenant has a complaint, all he has to do is pick up the telephone to the Residential Tenancy Commission and have it corrected. However, I will relate to you some of the horror stories of what can happen to a landlord if he has a problem with a tenant. These are not isolated cases.

We had a tenant in Sudbury who paid us a deposit, plus a post-dated cheque for the rent on an apartment for herself and her husband, as of 1 July. She moved in. A few days later up to four girls moved in also. It was noticed and complained to us by other tenants that up to 10 men a night were visiting the apartment and noises were disturbing them. This was brought to her attention, but she smiled and made no comment. Her post-dated cheque for the rent was returned NSF and the August 1 rent was not paid. We therefore gave her the Form 4 notice to vacate on 4 August. This she ignored, so I travelled to Sudbury and went to the Residential Tenancy Commission office, which referred me to the district court. I was told they would assist me in filing court action. I went to the court, which sent me back to the commission with a form, where I got very little assistance.

I then contacted a lawyer who gave me some advice over the telephone, but he did not hold out much hope for me. Eventually I filled out the necessary forms myself and went back to the court and had to pay $21 to file. I had to attend court in Sudbury on two more occasions. The tenant moved out at the end of August in accordance with the court order, but paid no rent and left the apartment, which had been newly decorated, in a shambles, including 123 holes in the walls made by nails and other means. She did not attend court and was represented by a lawyer who was unable to give her present address to collect the rent arrears of $834. I requested the costs from the court, but was told by the judge I would have to start another action in small claims court, even though the amount was in excess of the $1,000 I could hope to get from that court.

I also indicated to the court I had to bring our building superintendent back from vacation to attend on two occasions and requested these expenses and my own for four trips to Sudbury. These were denied and my arguments were ignored by the judge, who facetiously congratulated the tenant's lawyer for collecting his fees in advance. We are out about $3,000. Why can we landlords not just pick up the telephone to the rent review board?

In another case, we rented an apartment to a couple and reduced their rent by $50 a month for one year as payment for their agreement to redecorate their apartment. All went well, but they moved out at the end of the year. We rented again to four college girls, naturally at the full rent, and then increased that rent at the appropriate time by the amount allowed by the act. Although we had rent for an occupancy of four, we later learned there were seven living in the apartment. The girls found out that the previous tenant was paying less and appealed to the commission. We were directed to pay back all the additional rent. We appealed and had to travel to Kirkland for the appeal. However, the commissioner would not allow the additional rent, saying the $50 amount we had allowed for redecorating could not be considered rent. All our additional expense was to no avail. We could have appealed again, through the district court, but we could not afford the additional cost and hassle. When they vacated the apartment, we had to redecorate it again and repair their damage. Surely something can be done to correct the situation for landlords and relieve the taxpayer and the landlords of the incredible costs of administering this act.

I have this in writing. I have also contacted the NDPers here, but I got no assistance whatsoever.

1520

Mr Mahoney: The bureaucracy is mind-boggling. Do you see any hope? I assume you have reviewed the bill we are currently having hearings on. Do you see any hope to substantiate the claims by the government that there will be reduced bureaucracy with Bill 121 that might end those kinds of horror stories?

Mr Davis: I can see no solution in the bill. Unless I can get out of this business, I am going to go bankrupt.

Mr Mahoney: Where are your buildings?

Mr Davis: I have one building in Sudbury and another in Elliot Lake. We managed to sell the Kirkland Lake one at a loss.

Mr Mahoney: What is your occupancy?

Mr Davis: Our occupancy in Sudbury is very good. The other is in Elliot Lake, which is incredibly poor of course. It is a tough situation and the tenants think it is rather funny. Even if I get these increases now, how can I possibly go to the tenants and say, "For a year back you owe me another $15 a month rent." I would get laughed out of the building.

Mr Mahoney: In fairness, a lot of your problems are a result of the delays in the bureaucracy under the former legislation. I think you have indicated that. I have no problem admitting that. Fair is fair. What we are attempting to do, or are supposed to be attempting to do, is to try to improve on the situation, and I certainly cannot see anything that will improve it.

When you talk about going bankrupt, in Elliot Lake would you be in the position of just simply closing the doors and walking away?

Mr Davis: In Elliot Lake, I am fortunate enough not to have a mortgage any more. I have owned the building for some 30 years.

Mr Mahoney: That is your retirement, of course.

Mr Davis: That was my retirement. If somebody is going to offer me a job, I could get away from here. It is incredible.

Mr Mahoney: We are all going to end up working for the government, so what is the difference?

Mr Davis: Apart from all this, can you imagine the accounting, the legal costs, the stress?

Mr Mahoney: What were your bills?

Mr Davis: Just to file this was $1,200, and now with this refiling and all this information they want, I cannot see any change out of $2,000. We do not recoup that at all. That has to come out of my own pocket. I now collect the Canada pension plan and it is not going to cover this for sure.

Ms Harrington: First of all, you have pointed out how complicated the system was. I would like to just put it on

he record that many of the reasons why landlords could go to rent review, such as the financial loss and a whole lost of other things, have now been eliminated. Therefore, hat is one reason the system will work more quickly. There will be fewer bureaucrats because many of those easons have been eliminated.

Your statement that things have to happen more quickly: I really believe it is very important that we have o have a more streamlined system, both for landlords and enants. You can imagine what it is like for tenants not knowing, after appeals and 18 months or two years have gone by, whether or not their rent is going to go up, whether or not they have to pay thousands of dollars in back rent. There is no security. They do not know what is happening, both landlords and tenants. The system has to work and it has to be much quicker. You have to have an answer soon.

A lot of the problems, the horror stories, which I agree are very terrible horror stories, are a result of the Landlord and Tenant Act, which unfortunately we are not dealing with at this point in time, but hopefully is part of the larger picture of housing in Ontario that we want to deal with. What types of rent are in your buildings in Sudbury and in Elliot Lake?

Mr Davis: We have been bringing the rents in Elliot Lake down. I have bachelor apartments there which I am renting with all services included, and furnished, for $200 a month. A two-bedroom in Sudbury rents at $620 a month, and we supply all utilities, even car plug-ins outside. There is no way we can even break even. I cannot file for December 1 yet. That has to be in by September 1. I have no base to put it on. I phoned the rent review and they said, "Oh, you can sue these tenants." That is ridiculous.

Ms Harrington: Why is that ridiculous?

Mr Davis: It is ridiculous because I cannot possibly go around and sue each—

Ms Harrington: The costs?

Mr Davis: The costs involved, the time involved, the stress involved. In the meantime, I have to run those buildings.

Ms Harrington: You are saying this government—not my ministry—should have a look at the Landlord and Tenant Act.

Mr Davis: Yes, and I think perhaps get back to the system of free enterprise.

Mr Mammoliti: I would just like to respond to Mr Mahoney's comments earlier. I find it very compassionate. He is a very compassionate person, as you can see, but he is contradicting himself. I cannot understand why he is being so critical of this bill when they voted in favour of it in the House at second reading. When we talk about this compassionate stuff, I think it is important to put it on the record that they voted for it as well.

Ms Poole: On a point of order, Mr Chair: Just to set the record straight, the Liberal caucus voted in support of the principle of the bill, which was a rent review system, but we also made it very clear that a lot of the bureaucracy and a lot of the flaws in the bill would have to be corrected.

Mr Mammoliti: Is that a point of order, Mr Chair?

The Vice-Chair: It is not a good point of order, but of course I do not know that until she tells it to me.

Mr Mammoliti: You made a couple of comments on rulings. Actually not only you, but a few people today have talked about judges and their rulings and how frustrated they are at the rulings. I just want to say that it is not part of our mandate to determine whether a judge has made a good ruling or a bad ruling. I think it is only fair for yourself and the rest of the presenters who were here today, if they are listening, to understand that we cannot judge the basis of a ruling a judge makes, not in this forum.

Mr Davis: I can agree with you as far as a judge's ruling is concerned, but a commissioner of the rent review board who makes rulings like this has such enormous powers. They have the power to put landlords into bankruptcy, not just by denying their submissions but by delaying their submissions. This is going to be too late for me unless it comes within the next 10 days. This is ridiculous.

Mr Mammoliti: I was referring to a court of law.

The Vice-Chair: Thank you, Mr Mammoliti, and thank you, Mr Davis, for coming. I am happy to see you are the first one of my constituents to appear before this committee.

Mr Davis: Maybe I will have to emigrate from your constituency yet.

The Vice-Chair: This concludes the Sudbury portion of our hearings. Members will know that a week from Monday we resume our hearings in Toronto and then go to Hamilton.

The committee adjourned at 1528.

CONTENTS

Thursday 8 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1265
United Tenants of Ontario G-1265
Muskoka Legal Clinic G-1267
Mallette Goring and Associates G-1269
Crisis Housing Liaison (Sudbury) G-1272
Sudbury District Property Owners Association G-1275
Maurizio Visentin G-1278
H and H Property Management G-1280
Ken Kaltiainen G-1284
Kingsway Villa Ltd G-1287
Barbara Carpenter G-1289
Al Davis G-1291
Adjournment G-1293

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Première session, 35e législature

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Le lundi 19 août 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

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Table des matières

La table des matières des séances rapportées dans c numéro se trouve à l'arrière de ce fascicule, ainsi qu'un liste des membres du comité et des autres députés ayan participé.

Il existe un index cumulatif des numéros précédents. Le renseignements qu'il contient sont à votre disposition pa téléphone auprès des employés de l'index du Journal de débats au (416) 325-7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 19 August 1991

The committee met at 1315 in room 228.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise he Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

MINISTRY OF HOUSING

The Acting Chair (Mr Mahoney): Can we call the committee to order, please? We have a briefing from the Ministry of Housing which was scheduled to be one hour. We have now been briefed for the first 15 minutes of that one hour and I would ask whether we could try to do it in 45 minutes so we can keep the committee on schedule. Welcome, and just begin whenever you are ready.

Ms Beaumont: I think what we were going to be doing today was to follow up on the briefing we gave to the committee a little while ago and respond to the committee's questions. Ms Poole, I know, said she had 14 questions for us at the end of the last presentation.

The Acting Chair: Fourteen? I will go and get a coffee while she is asking.

Ms Poole: That was only at the end of the last presentation. I have a few more since then. Perhaps my first question should be to the ministry, to ask what the status is of the five requests I have made to date. On August 1, I asked for a definition of "neglect and inadequate maintenance." I asked for an explanation of why a cost-no-longer-borne provision is not in Bill 121. I asked if you could have an opinion on property taxes being separated from the rent, as has been suggested by several presenters. I asked for confirmation that capital expenditures under Bill 121 rules will apply for the transition period, June 6 to proclamation, which seems to be silent in the act.

Then up in Sudbury I asked for one additional item of information. I asked if the ministry would give us a sample calculation of what the guideline amount in 1995 would be, based on a 44% increase in hydro from 1992 to 1994 and a 10% municipal tax increase per year, plus whatever you might project as reasonable for annual increases for heating and water, and give us a calculation as to what the guideline amount would be under those circumstances. I wonder if any of that material is ready or if you could comment on what is.

Ms Parrish: This is going to give people the impression the ministry operates under the last-in-first-out approach of accounting, because we can respond to your last two, and then I might just go back and revisit the first three, because I think some of them we can respond to. I am sorry I did not completely follow every question. You talk faster than I think. I guess that would not surprise anyone.

I would like to speak very briefly to the issue of June 6, and maybe I will just explain what the problem is for other people who may have forgotten what the issue was. There is some concern that the way the bill is drafted, it is very clear what the rules are for transitional capital and it is very clear that after the Rent Control Act, Bill 121, is proclaimed, the new rules apply. There are quite a few people who say: "What happens between June 6, when the bill was introduced, and when the bill was passed? Are those treated under the same rule as the transition group or are they treated under the same rule as Bill 121?"

Our lawyers have been looking at that and we talked to legislative counsel. The strictly legal view is that it is clear in the statute that the Bill 121 rules apply to capital repairs in the post-June 6 period. However, if there is an anxiety that it is unclear and people would like that reassurance, there is no harm in amending the bill, because that is the ministry's policy. However, it is legislative counsel's view that it is quite clear Bill 121 rules apply beyond June 6, but there is often a reassurance element that might be appropriate. Because this is important, it might be appropriate to clarify it. However, from a strictly legal viewpoint, that is what the law is.

Ms Poole: That is good. I think that will be of assurance to the concrete restoration association, which is the group that initially brought it to my attention. They are saying that landlords are saying to them that unless they have the assurance they will be covered from June 6 to proclamation day, they will not go ahead and do these necessary repairs.

Ms Parrish: They have voiced the same concern to the ministry.

Ms Poole: That is good.

Mr Tilson: Before you leave that, can I ask a supplementary? When you indicate that you would be trying to recover, with respect to the transition period, all pre-June 6 periods—I may have given the wrong date. The date says January 1, 1990.

Ms Parrish: To June 6, 1991. That is the transition period.

Mr Tilson: That is correct. I am just interested in your statement that you wanted to catch all situations that were created, I suppose, as a result of retroactivity. There are clearly some areas that have come before this committee in the Bill 4 hearings and in these hearings of people who were doing work back in 1989. Would you recommend that period be included as well?

Ms Parrish: Ms Poole is dealing with a narrower question, which is what happens to those capital repairs which occur after June 6, 1991, but before Bill 121 is proclaimed.

Mr Tilson: I understand that.

Ms Parrish: The second thing you are asking me is an issue that several presenters have raised with this committee, which is whether the January date is the right date for the transition group. I cannot say the ministry has a position on that. I think we are listening to what people have to say. We have had some meetings with groups and we have asked them what they think a reasonable period is. Bear in mind that under the current system, landlords had to apply within a certain period notwithstanding, so it would be unfair to actually create more rights than they would have had anyway because for some reason they did not apply for years and years. The question is, what group of people is realistically affected? That is an open issue. We are still looking at that.

Mr Tilson: Mr Chair, on a point of procedure, is this Ms Poole's day? Are we going through the full 14 questions or are we going to alternate between parties?

The Acting Chair: How many questions do we have to go through? No, we will alternate fairly. There is still lots of time left. You just used some of yours.

Mr Tilson: I appreciate that you would say that too, Mr Chair.

Ms Poole: I am perfectly happy if we want to divide up the time by caucus or however.

The Acting Chair: We have 45 minutes; that would be 15 minutes each. See how I figured that out.

Ms Poole: We have a very smart Chair in there today.

I guess the second one you were going to comment on is the calculation for 1995.

Ms Parrish: Yes. We have some material. I did not quite pick up exactly the assumptions you wanted, and ours may not be quite right, but I think they are close. What we assumed, as follows, was that municipal taxes would rise on average 9%, which is a fairly high increase but not out of the ballpark; higher than this year. Electricity, 15%. We then said that earnings, which is one of the factors, is likely to rise by 5.1%. Then we said everything else was likely to rise by inflation generally, which is 3.7%. We just used that as a kind of forecast. It is actually higher than the federal forecasts but in line with the Ontario budget forecasts. So there is no magic in terms of what assumptions we have.

We regularized the waiting; that is a somewhat technical explanation. Essentially, we went back to 1987 and we said, "What were the waits then?" Otherwise we would have to guess what they would be in the future. That is a fairly technical thing and does not have a big impact.

Essentially what happens then is, if Bill 121 remains unchanged and these things come to pass, the large-building guideline in 1993 would be about 5.3% and the small-building guideline about 6.4%. In 1994 it would be 5.4% or 5.5% and the smaller buildings at 6.6%; in 1995, 5.3% and 6.4%, in that neighbourhood.

That assumes that your assumptions about the level of electrical and municipal tax increases are true and that all those other assumptions are true. It also assumes nothing will change in the way the guideline is calculated at all. As you know, that is something the ministry has already indicated it is going to do some consultation on, whether the guideline itself should be amended and so on. It gives yo an idea, in the ballpark.

Obviously, one of the biggest factors, because it repre sents a fairly large proportion of any rent increase, is wher municipal taxes go in the province. That is clearly a fairl significant factor because the overall building operatin cost index component is almost 40%. I guess betwee about 35% and 40% is municipal taxes. If municipal taxe rise in a high way, then you will have a higher number. I municipal taxes are lower, you will have a lower number.

Mr Turnbull: You are mentioning municipal taxes but as you know, there is a real possibility we may see th imposition of market value reassessment in Metropolita Toronto. Most other areas of the province already hav this. We could see an unusually large tax hike in Metr Toronto in isolation from the rest of the province. It seem to me, if you have this in your building operating cos index formula, because you are averaging it, you will b giving extra money to all the buildings outside of Metr and not enough money in Metro. If the landlords in Metr go after an increase, it will deplete the amount of mone available for renovation; I am talking about over the regula guideline. Is that not correct?

Ms Parrish: What will happen in the world of marke assessment is something I am almost, sensibly, somewha reluctant to speculate on.

Mr Turnbull: Would that not be correct, if that set o circumstances happened?

Ms Parrish: I guess I would start back at the ver beginning and say, is it likely that as a result of marke value assessment, you would have disproportionately hig increases in rental buildings in Toronto? I do not thin actually there is very much evidence that would be the case. think the contrary is the case, that many rental building will actually have a decrease in rent, but it depends on hov they do market value assessment. That is why it is ver hard to say.

The indication is, by and large, that depending on hov you did market value assessment, tenants might benefi but I think the wider question you are asking is really question we have to look at in the regulations, and that i really whether the way we pick the factors in the guidelin are completely appropriate and fair. There is no doubt tha because Metro is big it has a disproportionate impact o the guidelines, so whether it goes up too high, or down to low, for that matter, it has this disproportionate effec Then one has to say, is that right or fair to regions outsid Metro? I do not know the answer. I think you are right i saying if that phenomenon occurs, it is happening today where Metro has a disproportionate effect. Is that a goo thing to continue in the future? I honestly do not know th answer to that. There are some people who say we shoul move to a Canada-wide average for property taxes or som other approach to property taxes. Those are all things tha might be looked at in the regulations. I think you hav identified a real problem.

The Acting Chair: Do any members of the governmer have questions at this time, or do you want to hold?

Ms Harrington: I will hold.

The Acting Chair: Okay. Ms Poole, if you want to arry on.

Ms Poole: Pursuing the matter of the guideline, for ırge buildings it is 50% of the rent control index plus 2%, nd for smaller buildings two thirds of the rent control ıdex plus 2%. So we are using the figure of 50% in one ıstance and 66.6% for the other. There was a reference in our earlier comments when you made your presentation bout a study that showed the range would be 40% to 50% or inflationary impact. The landlords' group, the Fair Rental Policy Organization of Ontario, has estimated a 8% average. I am just wondering why there would be uch a large discrepancy in what we are hearing, and per-aps you could tell us a little bit more about this study and vhether we could have access to it.

330

Ms Parrish: Unless I am mistaken, I think we have lready tabled that study. It is called the Market Economic Rent Gap in Ontario, dated April 22, 1991, prepared by Royal LePage. I think it is table 4.3, called "Revenue Expense." The Chair is signalling that yes, we did table that.

That material indicates that the proportion of expenses r operating costs as a percentage of revenue has risen. For xample, in 1975 it was 39%; 1980 was 41%; 1985 was 0%; 1989 was 46%, and 1991 was 51%.

There certainly are variations, that is true. I actually ave not seen the study that FRPO has referred to. I would e glad to look at it. I can only speculate as to why their tudy is different. They may be dealing with a different ample. They could be dealing with different assumptions. One thing you learn in the world of statistics is that there re lots of different reasons. All I could say at this point is ıat I would be glad to contact my colleagues at FRPO. I m sure they would give us their study. We can look at it nd tell you why it is we think the LePage study and the FRPO study have different numbers, if that is satisfactory.

Ms Poole: That would be fine. I would appreciate ıat. I have to go back to my place.

The Acting Chair: Do you want to see if there are thers and come back?

Ms Poole: Sure, whatever.

The Acting Chair: I am attempting to ensure that the government members and the third party members have qual opportunity here. If you do not have any questions, ve will carry on.

Ms Harrington: I do not have any at the moment. Mr Tilson can go first.

The Acting Chair: All right. Mr Tilson, in the strict vatching of the clock, you and Mr Turnbull used up about ix minutes of your 15 in your supplementary questions. If ou want to take some time now, then we can come back o Ms Poole, who still has a couple of moments left.

Mr Tilson: The question I have has surfaced with ıany people before the committee, and that is that they do ot know what a lot of words mean in the act: "amortiza-ion periods"—you do not know when they are going to be vailable—"neglect," "necessary." There is a whole slew f words. I could spend 15 minutes talking about them.

I assume your answer is going to be, "Oh, well, there will be regulations which will come forward." If I am correct in that assumption, would you be prepared to provide us with your draft regulations that we could consider prior to our going through the clause-by-clause section of this bill?

Ms Parrish: One of the things that has come out quite often in the presentations is the amortization table issue. I think the Minister of Housing, Ms Gigantes, was at one of the presentations where that issue came up and she directed us to go ahead and prepare our staff work for consultation on the amortization table. I am not exactly sure when you will be in clause-by-clause review, but we expect to be in a position to release our study on amortization tables and what we are thinking of doing for consultation purposes probably within the next two weeks or so. Obviously to release every single regulation under the statute would—I just do not think we could do the work that quickly, but I think what we are looking at are the key regulations that people need to understand Bill 121, such as the guideline, such as the amortization tables.

Mr Tilson: I think if we can get the amortization tables prior to clause-by-clause, that would certainly be useful. But the other thing that would be useful—for example, section 15. I suspect our party will be putting forward a number of proposed amendments for the committee's consideration, and to deal intelligently with those amendments or to deal intelligently with section 15 as it stands, it seems to me we must know what a number of words mean in that section.

I am just picking that at random. I do not mean for you to dwell on section 15, but the word "necessary," for example, is used; the word "neglect" is used; "system" and "thing" are used, words such as that. I assume that somewhere along the line regulations would be prepared on those subjects as to what that specific terminology means. I would hope that you will have draft regulations for our consideration of terminology throughout the act that you intend to put forward in due course.

The Acting Chair: I think the answer was that they will be done as quickly as possible and will be provided to the committee as they are ready. Is that fair?

Ms Parrish: The direction the minister has given us is for us to be very consultative and to give the information as much as possible. We have not, in all honesty, completely identified all of the areas that are appropriate for definition by regulation, and that is partly because that is information we get through the hearings. In some cases it has not always been what we expected. For example, in section 15 it very clearly says it is necessary to do X, Y and Z, so I would think that strictly from a drafting viewpoint, that word is defined. It is "necessary" for this; whereas "neglect," I think, is an area that you could either allow to develop on the basis of case law as cases come forward or define by regulation.

The Acting Chair: Could I help, though, without getting into defining all of the regulations and the definitions here today. The question really is, as I understand it, are you going to be in a position to present the committee with all of that work prior to our doing clause-by-clause?

Ms Parrish: I think it is unlikely; not all the work.

Mr Tilson: That does make it very difficult. I would ask if you would consider that with the minister and the parliamentary assistant, because otherwise, I can tell you, our party will consider putting forth amendment after amendment as to what we perceive the words to mean. How can you intelligently deal with a bill when you do not know what the words mean?

Interjection: We do it all the time.

Mr Tilson: I suppose my second question is, we asked for information, which members of the Liberal Party asked for as well, and that was the apparent conflict of policy between the Ministry of Housing and the Ministry of Energy—I am thinking specifically of conservation issues—and your staff was to get back to us on that subject.

Ms Beaumont: What we had undertaken to do was to investigate any comments we may have received from the Ministry of Energy on the proposals in the legislation. Were we able to table any material with the committee on that?

Ms Parrish: We are not able to table any of the material because it is related to cabinet documents.

Mr Tilson: What? I am sorry?

Ms Parrish: The material relates to cabinet documents; therefore the Freedom of Information and Protection of Privacy Act prohibits me from releasing that information.

Mr Tilson: Are you telling me that it is impossible for members from the Ministry of Energy, staff members or even political members of the Ministry of Energy, to come and discuss policies that the Ministry of Housing is going to be putting forward?

Ms Parrish: No, sir. All I am saying is that the only written material we have on file is in response to a cabinet submission. There is certainly nothing to prevent the ministry from saying what it wants to say.

1340

Mr Tilson: I will leave that one for the moment, if that is the response of staff, Mr Chair.

The other issue I raised, if staff could get back to me on it, was a question with respect to rooming houses and the subject of large units versus small units and the difficulty of rooming houses being classified as large units when perhaps they should be small units.

Ms Beaumont: Really, what has been spelled out in Bill 121 is a division of the rental stock into the large and the small. Rooming houses, as such, vary from a very few large rooming houses to a large number of rooming houses with a relatively small number of units. You have in the city of Toronto certainly a very few rooming houses with 20 units contained within them, but also large numbers of rooming houses with less than six units.

Mr Tilson: I am aware of those facts, but the question was that there appears to me, and I assume you will agree, areas where there is conflict. In other words, where there are rooming houses, generally the units are smaller than perhaps apartment units and there are more of them in the building. Therefore they can be caught in the large-building category, when perhaps they should be in the small-building category.

Ms Beaumont: I think however one makes the division, if you are going to subdivide the rental stock in any way, whether it be on the basis of size, type of construction, age, there are going to be situations where you are going to have individual properties that do not fit neatly into any of these categories. If you look at the rooming houses in the city of Toronto—and we have taken a look at some in connection with work we did with the Rupert Hotel Coalition—there are rooming houses with a large number of units. There are factors that apply in those situations that do not apply in many other situations with purpose-built rental housing. This in itself could make for some differences in the operating costs of those buildings.

Mr Tilson: My question was, should there be a separate section for rooming houses in the bill?

Ms Beaumont: We have not brought it into the bill. It is certainly something that could be considered if it were raised at clause-by-clause.

Ms Harrington: When this bill was formulated, the guideline was adjusted from two thirds of the BOCI down to half. Can you tell me why that went that way?

Ms Parrish: The information we had was that it was not generally the case that the ratio between operating expenses and rents was 66%. That is, generally landlords received $100 worth of rent and spent $50 or less on operating costs. Now, that is not universally the case because—

Ms Harrington: You were quoting some figures.

Ms Parrish: Yes, and we have a study from Royal LePage that shows the numbers have never been as high as two thirds. As a result, what has tended to happen on average is that there has been some overcompensation in the base rent increase that tenants have paid and landlords have got.

Of course, because you are dealing with an average, that means there are some landlords out there who have been paying two thirds, and 80% and maybe even 100% because of their unusual cases, but it appears that on average 50% is closer to what is happening than is 66%. It was simply done on the basis of what information existed as to what would be sort of a good adjustment for future guidelines.

Ms Harrington: So it is the one study, Royal LePage. Were there any other figures or solid evidence? Is this over a number of years?

Ms Parrish: Yes, the Royal LePage study starts, I think, in 1971 and goes forward right to 1991. I think the highest number during the entire period is 51%, and that is probably because of the GST hit which occurred in that year.

Anecdotally, as well, we do look at the proportion of units coming to rent control and just sort of see whether or not that seems to be fair. We did not do a formal study, but we did go through and sort of benchmark. Again, there is no doubt that there are individual cases of landlords who paid more, but there are also cases where landlords paid less. This is just an average over time. It is interesting because currently it is two thirds and it has been two thirds for quite a while. Even the Fair Rental Policy Organization of Ontario said that it was between 50% and 58%. I have not seen any studies that say it is two thirds, so I think the two-thirds number was a negotiated number from the Rent

Review Advisory Committee. It was probably a fair enough starting point. We now know a little bit more information than we did then.

Ms Harrington: I was going to get into another area, but I think I will leave it and deal with it another time. Unless there is anyone else in the government who has questions, we will allow the other parties to have our time.

Ms Poole: We appreciate that. I am looking at the 3% cap. In any given year there cannot be an increase above the guideline more than 3%, and there are only two ways of getting this: by extraordinary operating increases or by capital expenditures. Could you explain to us what happens in the scenario where a landlord applies and receives the 3% increase for extraordinary operating but that landlord has, say, a 10% capital expenditures program in the same year? What happens to the carry-forward? Is it still only carried forward only one year, or would you allow a two-year carry-forward if the landlord has never received reimbursement for any portion of that 10%?

Ms Beaumont: The carry-forward is limited to one or two years, depending on the size of the building.

Ms Poole: But if you have not been reimbursed for any part of the capital expenditures, can you be reimbursed for that for the first time in the following year and then have a second year of carryover, or can you not apply for it if it is in a previous year?

Ms Parrish: I think I know where you are coming from. Let's suppose you make a capital expenditure in year 1, you carry forward to year 2 and you are at year 3. In year 2 you do another capital repair. You can reapply and then carry forward into year 3. So you can reapply. However, you are always capped at 3% and you are always limited by the amount of carry-forward that you have.

Ms Poole: But if you did the capital repairs in year 1, you incurred the extraordinary operating in year 1 and your extraordinary operating used up all of the 3%, can you then reapply in year 2, using that as your base year for your capital expenditures, and then have one year carry over after that?

Ms Parrish: No. You are limited by the time frame, I would assume.

Ms Poole: You certainly would be, under the current act, in the way of works.

Ms Parrish: No. You would have the one-year carry-forward, but you would not be able to pick up another. However, if you did your extraordinary operating cost increase and you had a capital repair in year 1, you get a one-year carry-forward. Then in year 2 you want to do something again but you are already against the 3% cap; you can reapply in year 2 and get a carry-forward for year 3. But you cannot adjust the time period in order to get 3% every year if in fact you have not done your capital repairs during the correct period.

Ms Poole: Rather than pursue that particular one, I would like to bring up a matter which I think is of concern to many people, both tenants and landlords, and that is the maintenance and work order provisions in sections 38 and 39. This can be a real catch-22 situation, because the way this is drafted is quite different than it was in Bill 51. Instead of just ensuring that the Bill 51 provisions were enforced, you have completely wiped them off the map and started fresh.

But one of the things, for instance, in Bill 51 was that it would have to be a substantial matter. If a lightbulb was not changed, there could not be a rent penalty. There are sort of safeguards built in with Bill 51. For instance, you can have the scenario where a building inspector would go in in November and say, "This exterior wall work needs to be done," and then he puts a work order on; 60 days later that work order expires, and yet the landlord could not have possibly done the repair because he has to wait until spring to do it. That gets into the scenario, is the inspector going to levy a work order if he thinks these provisions are so stringent and so unfair that they are not enforceable? Like I say, it becomes a catch-22 situation where everybody loses. The work does not get done, the landlord has the rent penalty, but the tenants do not have a good standard of maintenance in their building.

First of all, why did you abandon the standards board? Keep in mind I am not saying that the standards board was perfect. One of the greatest problems with the standards board was that it had to use rent review in order to enforce what it was doing. But why did you not simply empower the standards board to take care of this problem, and why did you take away a number of the safeguards that were in Bill 51 to ensure that the maintenance does get done?

1350

Ms Beaumont: As you say, the standards board was not perfect, although I should say the standards board has accomplished some good things during its lifetime.

Ms Poole: That it has.

Ms Beaumont: One of the problems, though, that we had seen with the way the system had operated was, as you refer to it, Ms Poole, the length of the system. It was so convoluted you had to go from the municipality through the standards board into the rent review system, and that in itself led to problems with action not being taken or action being taken so late that other problems developed. One of the things we were trying to accomplish was to reduce the length of that process and to provide some simplification in that process so that action could be initiated at an earlier stage.

In looking at the whole question of the substantial infraction of a substantial standard, or words to that effect—

Ms Poole: The 3S test.

Ms Beaumont: —we looked at that and looked at some of the implications of that in the drafting of the legislation, fully aware that when property standards officers go into buildings, they will often come up with a list of 50 or 60 infractions of varying degrees of seriousness. We gave some thought to limiting the penalties to serious matters. But as we hear from tenant groups, as we see the concerns and listen to the concerns of individual tenants, many of them do not have to do with the one really serious thing that is wrong in the building but have to deal as well with an accumulation of little things which add up to the building being neglected and little things not being fixed.

The concern was that what we are trying to accomplish is that the landlords maintain the buildings as a whole to a

standard that makes them comfortable for people to live in. The concern as well was that if it is a lightbulb burned out or a coat of paint that is needed in the basement garage, for heaven's sake let the landlord fix it, rather than wait for it to go through the long period of the time that is allowed for taking action on a work order and all the due process built into the legislation.

Ms Poole: I guess I could perhaps live with what you are saying if there was anything built into this legislation to provide a hearing, to provide due process, to provide an opportunity if there are extenuating circumstances, but I have had some really good landlords in my riding who are just beside themselves about this particular provision, and they are ones who I think are models. They say this is going to lead to a whole deterioration of the standards throughout the industry. They say that if they have problems with it, it is not going to cure the abuses. What it is going to do is make it just a nightmare of red tape and bureaucracy for landlords who are pretty good landlords. I would prefer to see legislation that goes after the ones who are abusing the system and making it very difficult.

Mr Turnbull: Just following on from Ms Poole's comments, I had a landlord who is certainly an extremely good landlord, keeps his building in very good order, and he made the comment that in view of the fact that there is a maximum of 3% additional available, he will live in fear of a work order being put on the building for whatever reason, and therefore he will not go into any proactive work. He will wait until immediately prior to a rent application and then see if there are any work orders or anything he is being forced to do, because he knows he has this finite amount of money to fix it. So you are going to achieve exactly the opposite of what you think you are going to achieve with this legislation. Here is a good landlord saying, "Look, I have always taken care of my building, but I can't afford to take the risk that I'm going to spend the money on this set of items when the tenants may come and say, 'We've got to have this set of items addressed.'" He will react to the tenants' requests. Could you comment on that?

Ms Beaumont: Yes, we have heard those comments as well from landlords. I would only comment in response that the landlords know what the property standards bylaws say. The landlords know what the requirements of the law are with respect to maintenance of their buildings, and the responsible landlords I know have plans to maintain their buildings to those standards, and often to way beyond those standards, because most of those standards really are the minimum. That is why they are written the way they are.

Ms Parrish: I would just point out, for example, that we did a survey of all the orders that had come to the standards board, and over 95% of them passed the test.

Mr Turnbull: What do you mean by "passed the test"?

Ms Parrish: Passed the test that they were serious, substantial and subsisting.

Ms Parrish: They are serious and they have gone on for a long time is essentially the test.

Mr Turnbull: Okay, so you in fact do have a definition of what serious and substantial is then.

Ms Parrish: We did have a test in the old legislation, in Bill 51, and what happened, I guess, essentially is that almost nothing came through the system that did not meet the test. Then the question is, how useful is the test if almost everything that goes through will meet the test? All the test then accomplishes to some degree is delay, because you have to have a process of reviewing on that basis.

Mr Tilson: Following along with that, when there is a complaint, and I am looking specifically at section 36, the director will send an inspector to look at the building. Will there be a set of guidelines put forward by the ministry in some form of regulation, or is it your intent that the inspectors will determine their own parameters?

Ms Beaumont: If you read subsection 36(3), it talks there of determining whether the landlord has complied with prescribed maintenance standards, the intention being that the maintenance standards would be prescribed by regulation.

Mr Tilson: Will we be seeing those before we get into clause-by-clause?

Ms Beaumont: I am not sure. Colleen, where are we in reviewing the existing regulation?

Ms Parrish: There is an existing regulation under the current statute, so that would be our starting point. That was one that was done fairly recently by the standards board, and it had quite a widespread consultation. So although there may be some changes warranted to that, I think it is a very good start. We can provide you with that right away, because it has already been enacted. It is a fairly recent piece of work, because they went through quite an extensive consultation.

This is just the provincial standard. This is the standard that applies in areas of the province where the local municipality does not have property standards. The city of Toronto has its own standard. This is for those municipalities that do not have their own property standard bylaw.

Mr Tilson: Not necessarily. A complaint could be made. In other words, your standards could be different from the municipality's standards, and that is my question as to what guidelines are there. If that is what you are saying, that the guideline is going to be a specific municipality's standards bylaw, that is fine, but I do not think that is what you are saying.

Ms Beaumont: No. What we are saying is, if you look at the way the existing regulation that deals with property standards under the standards board operates, the municipal property standards bylaw applies where it exists, except in circumstances where it is not as rigid, where it does not meet the provincial standard, or except in circumstances where the municipality is not enforcing that standard. So if you have a situation where municipality X has a property standards bylaw which deals only with properties in a certain part of the municipality or only with certain classes of property, such as only high-rise or only commercial, in those circumstances, the provincial standard would apply.

1400

Mr Tilson: I understand all that and I guess I am looking at what will the inspector use to determine whether or not there is—

The Chair: Last question.

Mr Tilson: Yes.

The Chair: You are not nearly as flexible as I was.

Mr Tilson: Where was I? Again, if there has been a complaint, is there going to be a specific guideline? Are you saying it is the outstanding regulation that is in Bill 51—is that what your answer is—plus the standards bylaw, or are you creating something else?

Ms Richardson: Perhaps I could mention that the municipality will have its own inspectors and they will inspect under the municipal bylaws, and the provincial inspector will inspect for the provincial standards—

Mr Tilson: I know that.

Ms Richardson: —but only in areas where the provincial standard applies, and that may not be in major municipalities at all.

The Chair: This completes the briefing section of this afternoon's sitting. We are now going to revert to public presentations.

Mr Brown: I would like to make a motion, Mr Chairman.

The Chair: Mr Brown moves that before commencing clause-by-clause review of Bill 121, presentations be made to the standing committee on general government by the Ministry of Energy, Ontario Hydro and the Ontario Housing Corp.

Mr Brown, any further discussion on your motion?

Mr Brown: Yes. I have raised before this committee, as have my colleagues, some serious questions regarding the implications of Bill 121 for energy conservation and the goals of the Ministry of Energy and indeed of Ontario Hydro. As we have heard from the Ministry of Housing staff, they cannot discuss what the Ministry of Energy or Ontario Hydro might think of these particular provisions, and I think it is incumbent upon us to have those two groups before us to discuss those very important questions.

The Ontario Housing Corp. has been alluded to, as have municipal non-profits and a number of other groups. I think the Ontario Housing Corp. should appear before us. We have had a great amount of testimony relating to the costs of providing rental accommodation by the Ontario Housing Corp. Certainly there is a great deal of discussion around the issue of why non-profit housing in Ontario Housing units are not going to be subject to this bill. I would like some information, and I am sure other members of the committee would like some information, on the operating activities of Ontario Housing Corp. Why should they be exempt from this legislation and why has the government not included them? So that is briefly the motion.

Mr Tilson: The Progressive Conservative Party certainly supports this motion, specifically the issue with respect to the Ministry of Energy. It has become quite apparent, and I believe admitted by staff, that if a landlord does renovations for the purposes of energy conservation, the very next year an application could be made to reduce the rent; in other words, to reverse the very applications the landlord made for capital expenditures because of the reduction in general maintenance. That contradiction has yet to be explained by either the Ministry of Energy or the Ministry of Housing. We asked that specific question just this afternoon. Staff are coming back now saying that there are issues but they are cabinet security, cabinet confidentiality, so therefore I think our party certainly supports the resolution.

Mr Mammoliti: I am curious as to whether the subcommittee has had a chance to look at this. Has Mr Brown mentioned it to anybody on the subcommittee?

The Chair: I do not think it is necessary for the subcommittee to receive—

Mr Mammoliti: I did not ask whether it was necessary or not; I just asked whether or not it has had a chance to look at this.

The Chair: My duty here is to rule whether or not motions are in order, not whether the subcommittee has been consulted.

Mr Mammoliti: So is it yes or no? Have they looked at it? That was my question.

Mr Abel: I guess there is no question whether it is or is not appropriate; we know it is appropriate. But I would like to recommend that the subcommittee have an opportunity to get together and discuss this further, so I would like to move that this be tabled just so we can have an opportunity for the three of us to discuss it.

The Chair: It is an unusual procedure to have a member's motion referred to the subcommittee, but if it is the wish of the committee that it be done, of course we will do it. It is unusual. It would have to be up to the committee.

What I would like to do first, before we entertain that, is finish discussion on Mr Brown's motion, because I do not think Mr Tilson or Mr Turnbull had any opportunity to make comments if they wished to do so.

Mr Turnbull: In the spirit of co-operation with the government, certainly if we wanted to table it till tomorrow—

The Chair: That was Mr Abel's request, that the matter be reviewed by the subcommittee. That is different from having it put off till tomorrow.

Mr Turnbull: Okay, to review it by the subcommittee and then bring it back to the whole committee tomorrow. But I would point out that the stated objective of the Ministry of Energy is to reduce the consumption of energy in apartments, houses and other buildings, and it would seem totally appropriate that we should have expert evidence from those ministries and Ontario Hydro.

Mr Brown: I appreciate the fact that the subcommittee is going to discuss the issue. I would just like to point out however that we do already have the Ombudsman appearing before this committee.

Clerk of the Committee: No, she cancelled.

Mr Brown: Excuse me, we had the Ombudsman appearing before the committee but apparently she has cancelled. That was her choice. I think it is appropriate that we have other government bodies before the committee so that we can try to get an overview of public policy. One of the difficulties I have found, being a member in this place, is that often ministries are working somewhat in isolation in their own particular policy field and sometimes are not cognizant of the importance of other provincial policy

matters, so I think it is important for us as legislators to have a look at what these other people are doing in related but not necessarily the same policy fields. I appreciate the government's offer to discuss this matter further in subcommittee.

Ms Poole: In the interests of time, perhaps it would be acceptable for the subcommittee to deal with this. We are all in Hamilton tomorrow morning; perhaps we could meet at 15 minutes prior to the 10 o'clock start time to discuss this.

I have checked with the clerk and we do have a number of spaces available for presentations next Tuesday. It is fairly open right now due to the fact we are no longer going to Ottawa. I have two other suggestions I would ask the subcommittee to consider. One is to invite a city building inspector. It does not have to be from the city of Toronto and could be any municipal building inspector acceptable to the steering committee members. The second proposal I tabled was for a former rent review hearings board member to come before us, if we were aware of one who was willing to do so. I would just ask for those two additional matters to be discussed at the same time.

Mr Mammoliti: I just thought it important to mention that we are open to the idea, but I agree with Mr Abel; that is, I think the appropriate place, and to be consistent with what we have done in the past, is to give it to the subcommittee to talk over and then come back to us.

1410

The Chair: Mr Brown, from what I have heard, I guess it is the consensus of the committee that we are going to discuss not your specific motion, but the request encompassed in your motion, and expand upon it to include the city building inspector and a former rent review hearings officer tomorrow morning in Hamilton at 9:45. That is the consensus of the committee, as I understand it. Very good.

Mr Turnbull: Can I make a motion—I have just given the wording to the clerk—that we have a presentation from the Ministry of Financial Institutions on the question of financing of apartment buildings.

The Chair: Would you like me to add that to the list?

Mr Turnbull: I am happy to add that to tomorrow morning's schedule.

The Chair: Do you think we are going to get all of this done in 15 minutes?

Mr Abel: These two motions have been brought up before they have been voted on. I really see no need to bring them up again. Certainly I think we should get together and talk about Mr Brown's motion, and I think it is going to take the full 15 minutes to deal with that, but now we are rehashing old motions. We are bringing them back to life, and I think that is most inappropriate.

Mr Turnbull: Mr Chair, he is just simply not correct. He is remembering what happened in Bill 4. We need a member of the ministry.

Mr Abel: You were not here. It was voted on.

Mr Turnbull: If we cannot bring before this committee people from the ministries who have some input on this matter, why are we bothering to have committee hearings?

Mr Abel: This has been debated time and time agair It was voted on.

Mr Turnbull: The NDP does not believe in open gov ernment. This is absolutely ludicrous.

Mr Abel: May I suggest that you read Hansard to fin out what is going on.

The Chair: To resolve the disagreement, I have aske the clerk to check the records to see whether or not ther has been a vote, and if there was, what the date of the vot was, and the motion itself, on the matter of having some one representing the Ministry of Financial Institutions a our committee hearings. We will try to have that informa tion to you as soon as we can and that way we will be abl to clear this up.

Mr Tilson: I have no motion to make, Mr Chair. have a question of you as Chair.

The Chair: Certainly.

Mr Tilson: My counting is that Ms Poole has 14 mor questions to go, and I have a few as well with respect t the staff. I do not know what the committee feels, whethe that will be done after the presentations have been mad from various people across this province, and prior t clause-by-clause, but I would like some indication as t when we can pursue those issues with the staff.

The Chair: Do you want to work through a lunch thi week? Anybody?

Mr Mammoliti: This is something that I think shoul be discussed in subcommittee. If you want to alter th scheduling, let's be consistent here. We have done that i the past. Again, we are open to talk about it, but let's do i through the right forum. I believe that we should be con sistent and do it through the subcommittee. There are a lc of people here who want to present to us today, and we ar wasting time here.

The Chair: Just to make sure everyone understand how the committee functions, members can make thei requests at the full committee and they can make thei requests at the subcommittee. There is no prohibitio against members making requests in the full committee. I is up to the committee itself whether or not it wants t postpone the discussions to the subcommttee. In som cases, committees like to do it; in other cases, they do no So I do not think I am allowing anyone to be out of orde by making these suggestions and I would not want th record to even appear that way.

Mr Mammoliti: I did not say that.

The Chair: Well, to me it appeared that way.

Mr Mammoliti: I was just making a suggestion.

The Chair: Excuse me, Mr Mammoliti, but to me appeared that you said that the proper way to do this was a the subcommittee.

Mr Mammoliti: I said we should be consistent.

The Chair: Which means the Chair should hav noted that to the member. The Chair did not do that be cause the member has the right to do it in this forum.

Mr Mammoliti: We should be consistent; that is all am saying.

The Chair: I try not to interrupt you, Mr Mammoliti.

Mr Mammoliti: No, you interrupted me a number of times.

The Chair: Usually when you are out of order, as you are right now. So on the matter of the official from the Ministry of Financial Institutions, the record will be checked. I do not think we will have time tomorrow to discuss all of these items. We have only allocated ourselves 15 minutes, but we will get as much done as we possibly can.

Mr Tilson: I will not pursue the matter any further, Mr Chair. I would just like you to add that to your list of items to be dealt with by the clerk in due course.

The Chair: My recollection from Bill 4 hearings is that whenever we wanted to have ministry officials meet with us, we usually ordered in lunch and took advantage of the group being together to make the best use of our time. That is the only reason I suggested lunch, because we have done it on a number of occasions with the full consensus of the committee.

Ms Harrington: The staff of the ministry, I believe, are most helpful and most anxious to answer all the concerns or questions of a technical nature that are appropriate for them at any time. Obviously, in the last hour we have seen how long it takes to get all the questions thoroughly discussed. I would encourage any member of this committee to go directly to them if you have a technical matter that you do not understand. I think they would be most helpful to try and get that cleared up.

The Chair: The difficulty with that is, then it is not recorded in Hansard as part of the ongoing legislative debate and record and history of all of the members' work.

Ms Harrington: But sometimes members just want their questions answered for their own knowledge, I would think.

The Chair: I would just suggest to the committee that if certain individual committee members feel we need more time with ministry staff, and if our agenda for public presentations is full, we basically have two options: We do it over the lunch hour when we have approximately two hours, or we stay one evening after six and we agree to the time period, as we have always done, and we work within that time period. The only other option is first thing Monday morning, which makes it very difficult for the members who have to come in from out of town, or on Friday. Those are our options.

Ms Poole: The reason I checked with the clerk earlier was to see whether we did have any time available, and there is a large block of time on Tuesday during which we could deal with everything that has been raised today. I guess it has to be a political decision whether we want certain ministries to come or not, but there is certainly sufficient time on Tuesday because of the fact that we are no longer going to Ottawa for two days. We could easily have the ministry on that day without going into a lunchtime.

The Chair: Let me ask the clerk. What block of time do we have on Tuesday, please?

Clerk of the Committee: At this point there is time available on Tuesday. However, I have a number of outstanding phone calls, for which I am still waiting for replies, which will cut down the amount of time. In addition to that, the subcommittee had agreed to invite a member of the Canadian Bankers Association. There will be somebody coming from that association and at this point it has not been given a specific time because I still need to confirm that. So until all of that is done I am not going to know for sure exactly how much time will be available on Tuesday. I believe there will be some; I do not know how much, and I am not sure all of these representatives would be able to be fit in, along with an additional ministry briefing.

Mr Mammoliti: I just want to recommend again that perhaps the subcommittee talk about it even tonight on our way to Hamilton. Again, there are people here who want to present to us and I think we are wasting time by debating this. Let's get on with it and give it to the subcommittee, where I think it should belong.

The Chair: Thank you for your opinion.

1420

MULTIPLE DWELLING STANDARDS ASSOCIATION

The Chair: The first presenter for this afternoon is the Multiple Dwelling Standards Association. Sir, I think you are familiar with the procedures of our committee; you have been watching attentively for quite a while. The committee has allocated you 15 minutes, and you can reserve some time for questions and answers if you wish.

Mr Schwartz: My name is Jan Schwartz and I am president of the Multiple Dwelling Standards Association, on whose behalf this submission is being made. Our organization, which dates back to October 1970, does not represent builders or developers. Most of our members entered the rental housing field as investors, having purchased existing buildings, predominantly older structures. Many of these people put their life savings, or a great chunk of it, as a down payment on a six- or 10-plex. Some others pooled their resources and formed partnerships in order to acquire a 50- or 60-unit building.

These investor-landlords came from different walks of life, working in offices, factories, shops, various professions, etc. Many of them still do. Others have a sufficient number of units to require their total, full-time involvement and depend entirely on their rental income. A substantial number of our members, almost a quarter, have reached the age of retirement and their rental income represents either the sole or primary source of income. In fact, the smaller the building, the more likely it is to be owner-occupied. These types of owners are often referred to as ma-and-pa operators and, contrary to poplular belief, the bulk of the province's rental housing stock is owned by such small-scale landlords rather than by large corporations of builders and developers.

I would like to stress the point that rental housing has been an accepted part of the investment activity in this province for years. However, the present Ontario government seems to have other ideas about the structure of ownership in the rental housing field.

Seven months ago I appeared before this very same committee with regard to Bill 4, the temporary legislation which is to be replaced by Bill 121, the so-called permanent rent control legislation, as the former housing minister liked to refer to the successor of Bill 4.

While last January at the Bill 4 hearings we were given 45 minutes to make our presentation, this time the committee, in its infinite collective wisdom, reduced the time allotted to only 15 minutes. Consequently, we were not able to include today some of our members who were badly hurt by Bill 4 and will get reflief by the provisions of Bill 121. However, some of them managed to appear before your committee in the first week of hearings.

I wish we had more time to get to specifics on the proposed bill, but let me briefly mention some of the most objectionable sections of Bill 121.

1. Those who were caught by the moratorium under Bill 4 and were promised relief under the new legislation will be the first victims. Larger corporate owners who may have to write off huge losses, some in millions of dollars, may have the means to survive the blows, but the small investor who may have mortgaged his house to finance capital expenditures, or perhaps a new acquisition, could be wiped out if Bill 121 is not amended. However, whether large or small, no business or property anywhere in Canada should be treated by their elected politicians in ways which amount to expropriation without compensation. The drastic drop of values amounts to a 30% expropriation right now.

2. The overall cap of 3% covering not only capital expenditures but also extraordinary increases in taxes, hydro and other utilities amounts to a death sentence for most small-scale landlords, who do not have the financial means or reserves to survive. An all-encompassing cap of 3% is inadequate and punitive, especially if some work orders will be introduced or some retroactive major works.

3. Regarding the proposal of two different guideline increases, the artificial dividing line between large and small landlords makes no sense. If higher guideline increases are to be given to some buildings, it should be based on the age of the building rather than the size.

4. The maintenance enforcement rules are totally unreasonable. Owners could end up being victimized by some frivolous and vexatious complaints. In New York City some tenants deliberately vandalized buildings in order to get rent reductions. In Ontario, on the whole and with few exceptions, landlords and tenants get along fine, but it does not take much to stir up trouble, especially when incentives in the form of lower rents are tempting.

5. In conclusion, let me mention one section of Bill 121 which evokes the worst nightmares for a number of our members who settled in Canada in the post-war years, having left behind some of the most oppressive regimes in eastern Europe and elsewhere. Under section 113 of the bill, inspectors of the rent control administration will have the power to enter landlords' premises, seize records, inspect and photograph evidence—and all that without a court order. If this is not the worst kind of intimidation, what is?

Mr Chairman, if there is time left, I would be pleased to answer a few questions.

The Chair: You have about seven minutes for questions. Mr Turnbull.

Mr Turnbull: Mr Schwartz, in terms of your membership, are you aware of any members who have actually had difficulties in refinancing their buildings as a result of this legislation or the Bill 4 legislation?

Mr Schwartz: Yes, we did, because lending institutions are not willing to renew mortgages for the same amount.

Mr Turnbull: So they require the paydown in the amount of the mortgage?

Mr Schwartz: Oh, yes.

Mr Turnbull: And that paydown is typically what percentage?

Mr Schwartz: The paydown could be a 20% to 30% decrease.

Mr Turnbull: Have you got some evidence to that effect?

Mr Schwartz: I do not have it with me here, but I have had recent conversations, yes.

Mr Turnbull: So that is the basis of your 20%-to-30% reduction in the value of buildings.

Mr Schwartz: Yes.

Mr Turnbull: You spoke about the potential for vandalism, and I believe you were sitting here when I questioned the ministry officials about the fact that some landlords are telling me that in fact, because of the legislation, where work orders can be put on, they will not do any proactive work. They will wait until a rent review application is going in and see what orders there are and react to their tenants' complaints, rather than do an orderly maintenance of the building, for fear of not having enough money to be able to do it. Can you comment on that?

Mr Schwartz: Yes, I would even go a little further beyond that. Many landlords who have planned certain work have simply indefinitely delayed any work, things that cannot wait. Of course, if there are certain things that have to be done, well, they have to be done. But for anything that could wait, the tendency is; "Let's wait, let's see what happens." An unexpected work order or some demands to improve fire prevention equipment or anything of this sort, elevators, balconies, you never know how much this could cost, so—

Mr Turnbull: Do you think under this legislation there would be any possibility of landlords investing in energy conservation measures in their buildings?

Mr Schwartz: Not if it is not absolutely required by law. I do not think they would volunteer to do it if it involves a large outlay of money.

Ms Poole: Thank you for your presentation today. I would like to go over section 113 with you, which you have drawn attention to in this act. A number of landlords have said this is very oppressive and the search and seizure measures are draconian. But there is part of section 113 where I have a lot of sympathy with what the ministry is trying to get at, and that is subsection 113(2) where the inspector has the power of entry, with reasonable notice, as long as it is between the hours of 7 am and 9 pm. One of

the problems building inspectors have is that they cannot get access to a building and they have no way of enforcing this. So if they cannot get in, they cannot investigate a work order.

Is it just the search and seizure provisions that you are objecting to or is it the whole thing?

1430

Mr Schwartz: No, it is the search and seizure in particular. The way I understand it, it is to search. You must have a court warrant. Why are landlords being singled out as pariahs, worse than anyone else? Why are they treated almost on the presumption that they are guilty or are criminals? This is very disturbing, especially to a lot of our members who came from regimes where they could come in the middle of the night. Thank God that we have here certain hours. But still, they call it rent police. It scares the heck out of them.

Ms Poole: So you feel that as long as an entry is reasonable and gives notice, that is not the problem. It is what happens afterward if you have these draconian powers of search and seizure.

Mr Schwartz: The search and seizure must have a warrant from the court.

Ms Poole: I appreciate that advice.

Mr Mammoliti: On page 3, you mention that some tenants deliberately vandalize buildings in order to get rent reductions. Do you have any statistics? Do you have any proof of that today?

Mr Schwartz: I mentioned that this was quite common in New York. As far as Ontario, many of our members in the past reported to me that a certain tenant—now, these are exceptions. I am not implying that the majority of tenants are going to do that, but there are always individuals.

Mr Mammoliti: No statistics then. You do not have anything for us today.

Mr Schwartz: No, I cannot give you numbers.

Ms Harrington: The intent of this legislation, our long-term plan, is to have good landlords and good tenants in this province working together for the benefit of everybody. Probably many of your landlords, I would assume all of them, are in this for the long term. They are not there as speculators, and we want to encourage that long-term planning for your building.

What has happened in the past under the RRRA is that we have encouraged land speculation, which has added to the cost of doing business and has ended up in maybe even causing a portion of our economic slowdown. We are trying to right some of these situations.

We recognize in our legislation the special needs of some of the landlords like yourself who have small buildings, and the number that you talked about, the six units. That is something we are looking at and we would certainly encourage your recommendations on what that number should be. We actually have allowed, of course, a higher guideline and a longer pass-through period for the people who own the smaller buildings.

What I wanted to ask you about was the rate of return. Putting aside when a person sells a building—and we are hoping that of course you do not, because we want landlords in there not for speculation purposes but for long-term operating of the building—what would be a fair rate of return, without including the money made on selling the building?

Mr Schwartz: When you say "return", return when you sell a building do you mean?

Ms Harrington: No.

Mr Schwartz: When you buy a building?

Ms Harrington: Your operating, your profit yearly. What is a fair rate of return without capital gains?

Mr Schwartz: A rate of return, the way I understand it, is a return on your investment. Your original investment or your equity? You see, in the last year the values of buildings—I have read a lot of statistics, between 25% and 40% in that range—have dropped. You are talking about rate of return. People who thought they had and did actually have 25% equity in the building—let's say they put 25% down—if the building dropped by 25%, they have nothing. Their entire equity has been wiped out. There is no activity right now. The only buildings that change hands are under power of sale.

The Chair: I wish we could allow you more time, but we are unable to. Thank you for your presentation.

Ms Poole: Very briefly, could I just ask the ministry staff, when they are preparing for the next time they come before us, if they could perhaps take a look at subsection 113(7) and define for us what they mean by "occupier," because this may eliminate a lot of concerns that this gentleman has just raised before our committee, if "occupier" means landlord and tenant.

The Chair: Do we have ministry staff here who could do that for us, please? Thank you very much.

KENSINGTON-BELLWOODS COMMUNITY LEGAL SERVICES

The Chair: The next presenter is Kensington-Bellwoods Community Legal Services.

You have experience before our committee. We are going to follow the same procedure.

Ms Pereira: I would just like to add to what Ms Poole has already said, that Mr Schwartz indicated or seemed to believe that no search warrant had to be issued before a search took place. Section 114 in fact requires that a search warrant be had before the search takes place, and that before a justice of the peace issues a search warrant, he or she must have reasonable and probable grounds to believe that an offence has been committed and that entering and exercising search and seizure power will afford evidence as to the commission of the offence, which is the same standard that other suspected offenders under the Criminal Code or provincial offences legislation have to meet. So it is not treating landlords any differently, in our view.

Kensington-Bellwoods Community Legal Services is a community legal aid clinic serving low-income tenants who live in downtown Toronto in the geographic area defined by Ossington Avenue, Spadina, Bloor and Lakeshore Boulevard. We have represented tenants who live in buildings with rental units of between two and 230 rental units, so we have a wide range of experience working with tenants.

Our office supports the government's attempt to control rent increases but laments the fact that Bill 121 will not necessarily ensure the affordability of rental housing in Ontario.

In our view, the main objective of any rent control legislation must be the preservation of existing affordable housing stock. Given that Bill 121 maintains a cost pass-through system, albeit a modified one as compared with the RRRA, we believe that it will not achieve the objective of the preservation of affordable rental housing stock in Toronto, where most of our experience lies. In Toronto, skyrocketing rents have led to overcrowding—I have a number of tenants who live as families of four to six in bachelor and one-bedroom apartments—tenants living in substandard or illegal units and tenants paying substantially more than 25% of their income towards their rent. This is because rents have escalated at a rate beyond the rates at which tenants incomes have been increasing. That means that affordability is becoming a thing of the past.

1440

Given that Bill 121 is still a cost pass-through system, it will allow rents to continue to increase at a rate, albeit a slower rate than before, that surpasses the rates at which low-income tenants' incomes are increasing—at which social assistance rates are increasing for example. We applaud the elimination of the pass-through, however, of certain items, such as financial loss. Much of our experience with rents increase has been in the area of financial loss being passed through when buildings have been flipped.

I have some very specific suggestions and comments to make regarding Bill 121. One area I do not go into in my written submission is the issue of capital replacement reserves. However, the tenants we represent, given our experience, would support the idea of capital replacement reserves and regret the fact that Bill 121 does not in any way further the goal of establishing capital replacement reserves, which we believe is the only way to ensure that the capital needs of buildings, especially in Toronto, will be met in the long term. I am not going to go into that area; however, I would like to say that is an issue we feel very strongly about, an idea that we believe the tenants movement has for some time lobbied for and which we feel should be investigated further. Instead, we believe the government has chosen to simply modify the existing system, which is a betrayal of one of the many promises it made to tenants, and we regret that fact.

With respect to capital expenditures under Bill 121, we would demand that no increases for capital expenditures beyond the statutory guideline be allowed. The government said it is only 3%. However, it is not only 3%; it is 3% on top of the statutory guideline that would be allowed if justified by the landlord. It is our submission that the guideline increase is sufficient, that the government has to make a policy decision to allow only 2% of the guideline it has already designated as the tenants' share of capital expenditure cost. The government has to make a policy decision that this would be sufficient.

In the alternative that the government allows a 3% increase for capital expenditures above and beyond and statutory guideline increase, we submit that the landlord must be made accountable for capital expenditure money collected previously either under Bill 121 or the Residential Rent Regulation Act.

Clause 15(3)(a) and subsection 16(2) concern the issue of neglect and I just want to talk about neglect before I go back to this idea of accountability. These sections prohibit the rent officer from considering capital expenditures that became necessary as a result of neglect. However, neglect is, first of all, an undefined term which causes us some concern.

Second, Ministry of Housing officials have said in their informational pamphlets and during briefing around Bill 121 that the onus is on the landlord to prove there was no neglect. However, the legislation does not clearly place the onus of proof on the landlord. In sections 15 and 16, it only says, and I just have to read it to the committee, "A capital expenditure is not eligible if"—this is clause 15(3)(a)—"it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it." This does not require the landlord to prove there was no neglect. In fact, the onus is on the tenant to prove there was no neglect before a capital expenditure will be disallowed.

Again, it is our position that the landlord is in the best position, with the fullest information, to prove whether or not he has been maintaining and taking care of his building, and consequently the onus of proof must be a legislative onus. It should be defined in the legislation as being on the landlord to prove there was no neglect before a capital expenditure is allowed. This can be done by way of providing receipts, showing regular maintenance or servicing has been performed on elevators, for example. There are a variety of ways in which proof can be required from the landlord. However, the onus of proof must be explicitly imposed on the landlord before a capital expenditure cost should be allowed. Whether or not neglect is a factor, landlords should still be accountable to tenants for that percentage of tenants' rent increases allowed to them specifically for the purpose of capital or repairs in the statutory guideline increase. The government has said that, of the statutory guideline increase, 2% will be allotted for capital expenditures; 2% is considered to be required on an ongoing basis. The government has said 2% should be the tenant's share of the landlord's capital expenditure cost.

In that case, given that this is a tenant's share, it is our submission that tenants are entitled to expect that such revenue is used annually by the landlord for the purpose for which it was intended. We suggest a period of five years for which a landlord would have to account before being allowed a capital expenditure increase beyond and above the statutory guideline increase; that is, the landlord would have to prove that for the past five years he or she has used 2% per year on capital expenditure costs before being allowed an increase solely based on capital expenditures for the year in which he is applying. Even if the expense only occurred over a period of one year, it is our belief he should prove that in the previous five years he has been using the 2% he was given for capital expenditures, whether or not neglect is a factor.

We endorse the incorporation under applications to reduce the rent by tenants, sections 23 to 28. We endorse the incorporation of provisions 24 to 26 into the process which

andlords undergo in order to apply for an increase above he guideline, that is, looking at whether there has been ongoing disrepair and lack of maintenance. However, Bill 121 limits the retroactivity of rent reductions in cases of disrepair or poor maintenance but does not do so in cases where a service has been discontinued or a facility withdrawn, and we see no logical reason for such a distinction. These are sections 23 to 28.

In subsection 28(2), where an order is being made in respect of disrepair or poor maintenance, the retroactivity of the rent reduction only goes back to the date the application was filed, not to the date on which the disrepair commenced or the poor maintenance could be considered to have commenced. This creates, then, two parallel mechanisms by which tenants can request rent reductions: the section 96 application process and the Ontario Court (General Division), and the rent review process. However, the section 96 process in the Ontario Court allows tenants to seek rent abatements or rent reductions back to the date at which the disrepair commenced, whereas this system would only allow a rent reduction to be sought from the time of application to rent review services.

It is our concern that, should this committee decide to maintain the distinction between remedies awarded in these two forums, it would lead to tenants possibly not being able to seek a remedy in the Ontario Court, should they have first gone and sought a remedy in the rent review services or whatever it is called. It is our experience that the courts, having seen tenants achieve a certain level of rent abatement or rent reduction in the administrative tribunal setting, have believe the matter is already litigated, whether or not the remedies are the same, and have disallowed tenants from pursuing their remedies in the court system.

It is our demand that the retroactivity of rent reductions not be limited in cases of disrepair or poor maintenance, as they are not limited in cases where services are discontinued or facilities withdrawn. We see no logical reason for such a distinction, and we believe a factual finding can be made by the rent officer as to when the disrepair or poor maintenance began and that this is when the rent reduction should date from.

In applications by tenants under section 30 of Bill 121, Ministry of Housing officials, in a June 7 meeting I attended, stated that tenants would be allowed, under this section, to make an application for a declaration of the maximum legal rent alone. This has been an issue our office has litigated a number of times; that is, whether tenants can ask only for a declaration of the maximum legal rent and not for a repayment order. This is especially important in cases where, halfway through the proceedings, it is discovered that a repayment order would result, in the case of the old legislation, in a repayment of more than $3,000.

1450

The Chair: Time for questions, because you are rapidly running out of time.

Ms Pereira: Okay. I just wanted to make this one last point. Despite what Ministry of Housing officials have said, it is not clear under section 30 that tenants can make an application for an order for a declaration of the maximum legal rent alone. It is our office's experience that they should be able to do so; however, it is not clear that they can do so. Unless it is made explicit in this legislation, this will be an issue that again will have to be litigated at great time and expense.

Ms Harrington: First of all, I want to comment on your opening remarks about the problems faced by tenants here. I think all three parties realize that rent control is not the total answer to the solution. In fact, just today the other parties proposed looking at Ontario Housing Corp and various other things. I would like to let you know that the big picture of housing in Ontario includes the municipal nonprofits, co-ops and all the various other options. They are part of the picture for those who cannot afford even any increase in their rent per month.

You talked about the capital reserve fund. That is something which is very difficult, as you know, because you need a buildup of funds. You need several years before you can even make that operational. That is part of the problem, and we have had people look into it.

The other concern that comes to my mind is the cost subsidy from one building to another. New buildings would subsidize older buildings, some tenants subsidizing other tenants. It is certainly a worthwhile thing to look into, but we do not have the answer yet.

Mr Turnbull: I agree with you that it certainly does not address the core affordability problem.

I am interested in your comments about the cost pass-through system. How would you fund repairs to a building if the landlord is already losing money? Do you object to the cost pass-through system?

Ms Pereira: Absolutely. I think there should be one increase and no further increases on top of the guideline.

Mr Turnbull: What happens if the landlord is losing money?

The Chair: I am sorry, we cannot have more than one question.

Ms Poole: He is a tough Chairman. That was not my question.

One area of your brief that you just did not have time to get to dealt with procedure and the right of a tenant or landlord to have a right of appeal. Under Bill 121, it is extremely limited and only to matters of law. You have made one suggestion, to at least have a panel of three. I was looking for the section.

Ms Pereira: If they request a hearing; that is right.

Ms Poole: You have only 15 days or something?

Ms Pereira: Yes. I did not put that in the brief, but I would like to add that. Given our experience, it should be that a hearing is automatic unless a tenant asks or a tenant and landlord both ask that a hearing not be held or is not necessary.

Ms Poole: So you would like it to be automatic.

Ms Pereira: There should be an automatic hearing.

LABOUR COUNCIL OF METROPOLITAN TORONTO AND YORK REGION

The Chair: We have next the Labour Council of Metropolitan Toronto and York Region. We will be following the same procedure, 15 minutes, and if you wish questions and answers you will have to reserve some time.

Ms Torney: I am Linda Torney, president of the labour council. With me today is Penny Bethke, the executive director of the Labour Council Development Foundation.

The Labour Council of Metropolitan Toronto and York Region represents more than 180,000 unionized workers in the greater Toronto area. Our labour council has had a long-standing concern with the creation and maintenance of affordable housing for our members, as people who both build and live in various types of housing. This concern led us in 1974 to establish the Labour Council Development Foundation, which is a non-profit resource group that develops and builds co-op and non-profit housing. I would like to thank the committee for the opportunity to appear before you today.

We are generally supportive of the initiatives which the current government has taken to address the housing needs of Ontario's residents through legislative changes, to protect tenants from high rent increases and to preserve and maintain a stock of affordable rental housing. Four laudable principles have been named as fundamental to Ontario's housing policy:

1. Access to safe, secure and affordable housing suitable to people's needs is a basic human right.

2. Housing is fundamental to individual and family wellbeing and to the quality of life in Ontario communities.

3. Housing contributes significantly to the prosperity and stability of Ontario's economy.

4. Responsibility for the provision of housing is shared among all levels of government and among all sectors of Ontario's economy and society.

To these principles, I would add the right of security of tenure. A rental home is not secure if rent increases are outstripping wage increases and if appropriate preventive and remedial maintenance is not performed in a timely way. Part of this equation has been recognized in the previous attempts by provincial governments to regulate rents. To a limited extent, previous rent review legislation provided consumer protection by mitigating the worst excesses of increases of the early 1970s.

The rent review system in place since 1976 has been based on a statutory guideline that was supposed to cover the ordinary operating expenses and a cost pass-through mechanism to deal with extraordinary capital expenditures and financing costs. Landlords could charge higher rents based on the guideline or apply for increases above the guideline based on documented and actual costs. This system presumed that moneys allocated for ongoing maintenance and capital replacements over time were actually spent on these areas.

This legislative and bureaucratic system has become increasingly technical and complex over time. This is largely because it attempts to marry the resolution to two distinct problems in one legislative package. Affordable rental housing is both an income problem and a rental housing supply problem. The price of producing housing in the greater Toronto area far exceeds the ability of the average industrial wage earner to afford the economic costs of the unit.

This simple fact has long been recognized in the provision of subsidies to non-profit housing projects to help them bridge the gap between market rents and economic rents. Both the federal and provincial governments have previously offered various grant and tax incentives to private developers in order to encourage investment in rental housing. But as Ontario's stock of rental housing ages and deteriorates from the lack of proper maintenance, such investors have chosen to put their capital somewhere else, where better returns are to be found. Such choices are not available to the thousands of families and individuals who are faced with permanent exclusion from the home ownership market. They must choose among the sacrifices they are prepared to make: Do they give up adequacy, affordability, community bonds, location or security of tenure?

The housing market is not like other investment markets. It is fitting that the provincial government intervenes to regulate rents if we consider that housing is a basic right. Government has a responsibility to set standards and regulate the practices of people who choose to make housing their sphere of business activity since they are choosing to carry on business activities in an area that affects people's right to housing.

The proposed legislation has addressed some of our concerns about affordability and about the longer-term condition of our rental housing stock, but there are some serious limitations in the proposals.

The first of these is the five-year exemption for new buildings. Rent review legislation has not stopped the construction of new rental housing. What has inhibited the construction of new rental housing is the high cost of producing such housing and the opportunities to make more money building luxury condominiums and office buildings during the recent boom. When buildings occupied after January 1, 1976, were exempted from rent review, the provincial and federal governments still had to provide grants and tax incentives to stimulate the construction of new rental units. When the condominium market took off and the grants were eliminated, the limited production of new rental housing dried up and was replaced by short-life rental housing in investor-owned condominium units.

In British Columbia there is also a problem with rental housing supply, particularly in the lower mainland. There is no rent control in BC, yet rental housing is still only produced with government financial incentives. Because of the gap between affordable market rents and economic rents, rent control is not a significant factor in determining the production of rental housing supply. The high cost of creating the housing is the culprit, and a moratorium on the first five years for new buildings will do nothing to abate this cost.

1500

Government funds should be used to help those who cannot compete in the private market. The private sector has demonstrated that it can serve very well the needs of those who can afford home ownership. The public sector should concentrate its efforts on the areas where people

cannot afford what the private sector produces. The provincial government's initiatives in this year's budget to create an additional 10,000 units of co-op and non-profit housing will do far more to create a permanent stock of affordable rental housing and more than 22,000 person-years of work in the construction industry than any exemption on new buildings could hope to achieve.

Second, however, we do support the exemption from rent control for a form of housing like non-profit co-operatives, which are required to review their housing charges annually with their resident membership. As a labour movement, we believe strongly in the principle of user consultation. For this reason, we would like to see improvements to the rent-setting process in other forms of non-profit housing where tenants currently have no input in the budget-setting and rent-setting processes and no grounds for appeal of large rent increases.

Third, any intervention by the government in the housing market has obvious job creation and job maintenance implications. We support the government's initiatives to fund the creation of a non-profit rental stock to deal with Ontario's growing needs in the next decade. We want to see stronger mechanisms to ensure that moneys which are allocated in rent increases for ongoing maintenance and capital expenditures are actually spent on these items. A consistent plan for preventive and remedial maintenance will create a steady stream of employment for the building maintenance industry. We would like to put an end to a boom-and-bust cycle of work that is dictated by the cynical neglect of buildings until extraordinary measures are required.

Since such extraordinary costs are still passed through to the tenants, we recommend that landlords be required to account for the appropriate use of the guideline increases for the previous seven years when applying for an extraordinary increase. If landlords are receiving a 2% increase per year for capital expenditures, they must demonstrate that they have been reasonably spending those funds on capital improvements all along. In addition, increases for extraordinary capital expenditures should be deleted at the end of the life cycle of the improvement. This will ensure that the next required capital expenditure occurs on a timely basis and is not delayed in order to take advantage of a windfall profit for costs no longer being borne.

Fourth, reliance on the use of municipal inspections to enforce maintenance standards has been a hit-and-miss approach for tenant protection in the past. It does not address the ability of tenants to have local bylaws passed and enforced or work orders issued. Consistent deadlines for municipal inspections and the issuance of compliance orders need to be established for all Ontario municipalities. This would ensure that the issuance of a rent penalty order had an effect when the problem occurred, rather than long after the tenant's comfort and safety had been undermined. Such provisions would ensure that the buildings are being properly maintained on an annual basis, jobs are created and maintained in the construction industry and tenants do not pay twice for the same level of service.

We wholeheartedly support the goals the proposed legislation is intended to serve, but we are concerned that many problems remain with the proposed means of achieving those goals. Rent control is only one tool in dealing with the the dilemmas of affordability, access, adequacy and economics posed by the housing market today. Permitting the conversion of existing buildings to co-operatives should also be part of the solutions which the government considers priorities. Many families have had to make rental accommodation their permanent home when they are faced with house prices that even a unionized wage earner cannot afford in the foreseeable future. The provincial government's intervention in the regulation of rental property through rent control and in the supply of affordable housing through its co-op and non-profit programs are measures which will make housing units into secure homes for working people across the province. Thank you very much.

Ms Poole: Thank you for your presentation today. As representatives of labour, many of the people you represent would be in the construction industry and would be very dependent not only on new construction but also on rehabilitation of buildings. We have had representations from the Concrete Restoration Association of Ontario. I suppose many of the people who work in that sector would be the people you represent.

Have you looked at the issue of the capital increase—you have made some references to it in here—the 3% cap on capital expenditures and whether there is enough incentive in here for companies, for landlords, to want to do this type of work? It is obviously going to have an impact on the people you represent.

Ms Torney: I am going to do a partial answer to that and then I am going to ask Penny to respond. In our discussions with the construction industry, its primary concern has been—these are members of the unions that we represent—the boom-and-bust cycle. I think we need to address that boom-and-bust cycle very solidly. That is why we think the maintenance issue is important.

With regard to the 3%, maybe Penny would like to respond to that one.

Ms Bethke: Yes, it is difficult. I speak from experience in the co-operative and non-profit sector where we develop replacement reserves, and it has often occurred. Fifteen years ago, CMHC allowed a 2% per annum replacement reserve expenditure, the blunt theory being that the building had a life cycle of 50 years, and so if you put away 2% a year, you would be covering off all of the building components after 50 years. Actually, we have learned a great deal in the last 15 years in that process and learned that you actually have to do costing out of the life cycle of specific building items. They will have different lifespans and may in fact have a usable life after the official life-cycle cost. I think, as with any across-the-board blunt instrument, 3% is probably inadequate, but I could not tell you specifically how it is inadequate. It would probably have something to do with the building form, whether it is an elevatored apartment building or a walk-up building.

Ms Poole: The age of the building.

Ms Bethke: The age of the building, a whole complex of factors.

Mr Winninger: You have argued that quite possibly a five-year exemption from rent control will not necessarily

act as a stimulus for new construction. That may be true, but do you not also see a benefit in a five-year exemption in that it will allow rents to settle in? For example, a landlord might be able to rent the first few units at an inflated rate, but once the effect of competition in the market sets in, it might bring those rents down a bit, so that instead of tenants being subject to a statutory increase right from the outset on what may be an inflated level of rent, once rents have settled in, there might actually be a benefit to the tenant in that process.

The Chair: We have time for a short answer.

Ms Torney: I will try to make it short. I see two problems with that. First, that presumes there are enough people these days, certainly in our territory, who can afford to pay a market rent. This is absolutely not true. Second, it presumes that the rental charged is the sole factor in governing how prices are set. In this city speculation on land is your major factor. I do not think you can deal with this question simply through rent control. It is only a part of it. But to penalize tenants is not the answer. You have also got to look at things like speculation tax.

Mr Tilson: Given that 75% of the units are 20 years or older, I would like to hear your comments as to what recommendations you have to this government to encourage landlords to make capital improvements.

Ms Bethke: From the point of view that there is an existing affordable housing stock out there that is for rent, there have been several major reports done about the state of its ongoing deterioration. There were some buildings built in the last 20 to 30 years that were not built to last for 50 years or more. They were built to last for considerably less than that. The difficulty becomes that it does require a conscious investment in repairing and maintaining those properties and that, in the long run, is probably a less expensive solution to this government than constantly having to look at ways of creating a new supply. If we are constantly losing good-quality housing out from under our feet, it does not matter how many thousands of units the Ontario government develops every year; we will be losing a good stock of existing housing on the other side.

The difficulty becomes, in part, that you have to convince the people who choose to practise their business in this field that there is a limited return on their investment. If they think some of the gains that have been made in the past 20 years can continue, the government, in effect, has to indicate that they are wrong, that there has to be an investment back in the housing of the kind of rent increases the tenants have experienced in that time, and as far as they are concerned, they have not seen the investments back in the housing.

Mr Tilson: The difficulty is of course that landlord after landlord is simply saying: "With this legislation, we're not going to make any capital improvements, because we can't. We don't have the financial resources to do it." That's why the question was asked as to specifically what encouragement could be given to landlords to make these capital improvements.

The Chair: Thank you. I think that was a repeat of the first question. There was a long answer and our time has expired. I wish I could give you more time. Thank you for your presentation today.

1510

URBAN DEVELOPMENT INSTITUTE OF ONTARIO

The Chair: Next is the Urban Development Institute of Ontario. Good afternoon. We will be following the same procedure, 15 minutes, and you will have to reserve time for questions and answers.

Mr Kells: It is a pleasure for UDI Ontario to be here one more time. I will not take much of the 15 minutes, except to introduce my colleagues. We find it a little difficult when you represent 80,000-plus units to try and get all your concerns wrapped up in a 15-minute brief, but with the help of our planning co-op students and the expertise that is involved in UDI's apartment group, we have done just that.

I am Morley Kells. With me is Ephry Merkur, chairman of our Bill 121 subcommittee, and also a veteran landlord in the city of Toronto. Making our presentation today one more time is Yehudi Hendler, also chairman of our apartment group.

Mr Hendler: The Urban Development Institute of Ontario is a non-profit organization which has represented the land and development industry since its founding in 1957. UDI currently has approximately 225 member companies. Our apartment group members are the larger, long-term landlords in Ontario, the bedrock of the rental industry in this province, and account for over 80,000 rental units in Ontario. Our goal as long-term landlords is to provide quality accommodation at competitive prices to our customers, the tenants of Ontario.

As the representative of these long-term landlords, UDI welcomes the opportunity to address the standing committee on general government concerning Bill 121, the Rent Control Act, 1991.

Our industry, mostly Canadian-owned, has always reinvested its cash flows back into the province. As a result of rent controls, this has slowed significantly.

It is important to emphasize that as long-term and stable landlords, we look at our buildings as an ongoing business. In order for our business to be viable over the long term, we have to provide quality accommodation at competitive prices and realize a reasonable rate of return on our investment. The former is necessary to achieve the latter, and without achieving the latter, investors will direct their resources to other sectors of the economy or to other regions where reasonable rates of return may be found. The Rent Control Act, 1991, if passed as it now stands, will have serious effects on our ability to continue to provide quality accommodation.

While we have many specific concerns with Bill 121, only a few of the aspects of the legislation which we see as most problematic will be addressed here.

The first issue we address is Bill 4, which enacted a retroactive moratorium on rent increases over the statutory guideline for capital expenditures. The landlords who have pending capital applications as of October 1, 1990, have been trapped by Bill 4. These landlords acted within the

spirit and letter of the law when they made expenditures for repairs on their properties, expecting to recover this investment. The moratorium, in changing the law after the fact, is grossly unjust, especially in its retroactivity.

Subsection 16(1) of Bill 121 subjects applications on capital expenditures made between January 1, 1990, and June 6, 1991, to a 3% cap on rent increases over the statutory guideline, while subsection 16(2) imposes new conditions regarding neglect in maintenance. This is totally unfair. In order to treat landlords fairly, UDI's first recommendation is to administer rent applications for rent increases according to the legislation which was law at the time capital expenditures were made.

Also blatantly unfair is that the landlords who have pending capital applications for work substantially completed in late 1989 will not be able to recover any costs whatsoever. UDI's second recommendation to the committee is that clause 16(1)(a) be amended to include work in relation to capital expenditures that was substantially completed in the autumn and winter of 1989.

Also landlords are uncertain as to what rules will be applied to applications for capital cost pass-through for work substantially completed between June 7, 1991 and six months prior to the third reading of Bill 121. Bill 121 is not at all clear on this matter. UDI therefore recommends that section 16 be modified to clarify the treatment of applications to rent review for capital work which was substantially completed on or after June 7, 1991.

The adoption and incorporation of these three recommendations will help to restore some confidence in the stability of the economic and legal environment and will indicate that the NDP government actually does have a commitment to the fair treatment of all the people of Ontario.

UDI has concern for both elements of the statutory guideline increase. First, the operating cost component. Section 12 of Bill 121 allocates 50% of the rent control index to be incorporated into the annual guideline for rent increases for buildings of seven units or more. This reduction in the operating cost portion of the guideline from previous legislation translates into a reduced cash flow to building owners and operating costs that will become an increasingly large portion of their total guideline increase, cutting into funds ostensibly allocated for routine capital expenditures.

Mr Cooke, when he introduced Bill 121 on June 6, 1991, indicated that this 50% allocation was intended to reflect the inflationary costs of running a rental property. We submit that it fails to do so. Simply put, 50% of the BOCI is not enough. We hear from our members, whose buildings are mostly pre-1975, that most of their buildings run at about 60% or more of the BOCI formula. Information compiled by Ernst and Young for the Fair Rental Policy Organization of Ontario confirms that 50% of the BOCI is inadequate.

UDI recommends that the allocation for the operating cost portion of the statutory guideline for large complexes enunciated in subsection 12(1) be raised to two thirds of the rent control index as per the RRRA. This point is especially important because of the effects of subsection 15(2) and its more stringent definitions of allowable capital, ie, some capital items must now be reclassified as maintenance, resulting in increased operating costs.

The second portion of the statutory guideline under Bill 121 is the 2% provision for capital costs. There are two types of capital costs. One is the replacement of the existing assets, ie, structural, mechanical, electric, etc; the other is the unforeseen costs that are required as a result of new government legislation and are not within the control of landlords, ie, fire code changes requiring expensive retrofits, recent changes to the regulations regarding elevating devices and window cleaning, and the new Occupational Health and Safety Act.

UDI recommends that the amortized costs of these types of capital expenditures, ie, those unforeseen costs legislated by various governments, be allowed to be passed through in rents over and above any guideline increase, and that they be exempt from any cap over the guideline increases.

Section 13 of the bill treats extraordinary operating costs and large capital expenditures as one and the same. Extraordinary operating cost increases such as hydro and taxes are beyond the landlord's control and can have a great effect on the planning of major necessary capital expenditures. These increases will result in loss of revenue required for capital expenditure, piecemeal fashion of capital work and tenant inconvenience. UDI therefore recommends that extraordinary cost increases not be subject to the cap on increases over the statutory guideline.

The 2% reduction in the amount allowed with respect to the guideline increase as enunciated in subsections 20(3) and (4) and 22(5) is another concern, and we recommend that the provisions in these sections be deleted from Bill 121. Also, UDI recommends that subsection 21(5) be amended to allow landlords for large buildings to carry forward rent increases over the statutory guideline for a more appropriate longer period, and without the reduction of 2% on the carry-forward.

UDI members have expressed much concern over the issue of maintenance enforcement rules as manifested in sections 23 to 25 in Bill 121. These draconian sections will unfairly penalize all landlords for the actions of only a few. We at UDI believe that reduced rents for reduced services is fair. However, it is grossly unfair to allow for reduced rents due to inadequate maintenance, as this concept is subjective and not clearly defined. Provisions allowing for rent reductions based on inadequate maintenance will increase the likeliness of frivolous, vexatious and nuisance actions by tenants.

UDI recommends that Bill 121 allow for reduction in rents only if a decline in maintenance is established, and that section 25, dealing with inadequate maintenance, be deleted from the legislation. We have no objection to protecting tenants from bad landlords—and make no mistake; there are some—but there are also bad tenants. It is only fair that landlords also be protected. Claims against landlords should be legitimate, and vexatious and frivolous claims must be discouraged before they go to rent control proceedings.

1520

Currently work orders are issued automatically, even before the time period for dealing with problems has started. There needs to be a buffer period to allow landlords

to do repairs before receiving work orders for them. Also, some types of work cannot be done immediately. For example, work to stop penetration of water into a unit cannot be done during the winter months and must wait until warmer weather.

UDI recommends that landlords be informed in writing by tenants about maintenance and repair problems and given at least 30 days to complete the work before a work order may be issued, that time periods for completing work be revised to differentiate between work which may be done immediately and work which requires a longer period of time to be accomplished, and that the rent control inspectors contact both parties to determine the status of the complaint before issuing any work order.

In addition to the aforementioned issues, the provisions for regulations are also problematic. Section 125 of Bill 121 includes provisions for the Lieutenant Governor in Council to make prescribed regulations. This means that many of the rules of rent control can be changed without recourse to the Legislature. Section 125 creates uncertainty for landlords, with too much authority and direction in the hands of bureaucrats. UDI recommends that further and extensive consultation with the industry be undertaken in this matter to ensure that regulations remain practical, allowing the system to operate.

UDI also has concerns with regard to the appointment of rent control inspectors under section 112. This section fails to place any sort of requirement on the selection of these inspectors. UDI recommends that section 112 be amended to include a subsection which guarantees that rent control inspectors have a background in the rental accommodation industry, minimum university education and a thorough knowledge of the building codes and be cognizant of repair and maintenance issues, procedures and problems, and to include a subsection requiring the ministry to publish a job description for rent control inspectors which is to be used as the basis for hiring and which details the duties and responsibilities of the rent control inspector.

Once again, we would like to thank the committee for hearing this presentation. We would be glad to answer your questions now and we offer to meet with any individual or group of members on the committee to discuss the industry's concerns regarding Bill 121. One final point to keep in mind: As long-term owners of apartment buildings who have been in the industry in some cases for generations, we are interested and concerned about the safety and security of our tenants. We are also concerned about the livelihoods of the trades who work together with us to repair and maintain our buildings. Bill 121 as it now stands threatens to harm the trades and will impact upon our tenants by restricting maintenance and repairs. We hope you take our recommendations to heart.

Mr Tilson: Dealing specifically with sections 12 and 13, which you have referred to, and I guess really section 13, many landlord groups have said that instead of the guidelines that are being suggested we deal with the age of the building as being a guide. Do you have any thoughts or recommendations to this committee? No one has really defined what that means. What is an old building?

Mr Hendler: I guess the easiest way to define an old building is pre-1976 and post-1976. Probably the early 1960s, late 1960s, early 1970s is when a majority of the buildings were built. Those that were built post-1976 did not come into rent controls and many landlords, including ourselves, went to rent review on the new basis, under the new act, and there is a spread of anywhere from $200 to $500 between current rents and maximum rents. So in buildings where the maximum rents occur, I do not see where any of this is going to help us, because I do not see us reaching those rents for another 20 years, maybe longer. In the current buildings they need the moneys, dollars and cents, to put these buildings back into shape.

Mr Tilson: On another issue, it does not appear that we are going to get definitions prior to clause-by-clause and probably not even the passing of this bill. I would encourage any groups, whether it be landlords or tenants, to put forward in written form definitions that they feel should be considered for this legislation.

Ms Poole: Perhaps I could address my question to Mr Merkur, since he owns buildings in my riding, and I must say that they are extremely well maintained and the tenants seem to enjoy living there. My question is about maintenance repairs and maintenance enforcement rules. What do you see landlords doing if the rent penalties and if the work order provisions that are in Bill 121 go through in their current form?

Mr Merkur: I think landlords will have to comply. If you have the enforcement provisions, you can always make people comply one way or the other. One of the things we are seeing is that as soon as you get a work order, even on a minor thing, for some reason rent control is issuing an order the same day, so there seems to be a linkup of computers and there seems to be a breakdown. It is not supposed to work that way, but we are already seeing sort of an automatic—even before the time limits are up, etc. But it is going to be very difficult, because building safety is very important to the members of our industry and the 3% just is not enough to handle the requirements. I am sure if you make enough rules you can force everybody, but it is going to be very hard because it is going to be hard to finance it. It is going to be hard to work it and 3% just does not work. We have looked at it.

Ms Poole: You have mentioned one example where work has to be done at a seasonal time, so that a work order could be issued and you simply could not get to it for another three or four months. Can you think of other examples where this legislation is unduly punitive?

Mr Merkur: Yes, in certain cases you get a work order—you are tying in the provincial regulations with the municipal—for a garage slab that might take two or three years to do, that might involve $2 million or $3 million. The work order would only give you 30 days to do it. The municipal inspectors know that it will, and as long as you are progressing with the job they will co-operate with you. But at this point, under the new act, you would be in terrific problems because at the end of 30 days you would be in violation. All the penalty clauses in the act would fall in on you. So it just would make no sense whatsoever. You

could have the best intentions but it is just impossible. If you have a large garage slab, it is physically impossible to do it in less than a certain period of time. The work order still might say 30 days.

Mr Winninger: On page 5 UDI recommends that subsection 21(5) be amended to allow landlords of large buildings to carry forward rent increases over the statutory time line for "a more appropriate longer period and without the reduction of 2% on the carry-forward."

Given that a landlord can pass through up to 10% of capital costs over the first two years, and that increase then becomes built into the basic rent and in turn indexed over successive years, how many successive years of increases do you really need beyond the two that the proposed legislation would give you for the larger building? Why would you not want to reduce it by the 2% which is built into the normal statutory increase for capital repairs?

Mr Hendler: If you have a major capital expenditure such as an underground garage, it can cost $3 million or $4 million to do. Maybe you are going to do other structural work. We are not talking about fancy lobbies and things like that; we are talking strictly structural. You have already cut out a lot of items in the capital expenditure items that we can claim as landlords, so you have already taken care of that and the 2% is supposed to cover all those items. If you do 10%, you are only getting 6% because you are getting less 2% and 2%, so you are really only getting 6%. If you were to take 2% in the year that you do it, and if you look at even your own rent review process, it shows that the average rent increase was about 15%, or under 15% for the majority of buildings, you would take, let's say, three years with a 2% reduction, and if you got 15%, then you have capped it at 15% less 2%, so you have 13% pass-through. Then you have your costs no longer borne.

The Chair: Okay, thank you. I wish I could give more time to the presenters, but I am not able to.

1530

KAY GARDNER, MICHAEL WALKER

The Chair: The next presenter is Kay Gardner. We will be following the same procedure, 15 minutes and you can reserve some time for questions and answers.

Ms Gardner: I have with me Councillor Michael Walker, a colleague from an adjoining ward, ward 16 of the city of Toronto, who also endorses the comments I am about to make.

I wish to thank you for this opportunity to speak on Bill 121, the new rent review legislation. I believe what I will have to say will accurately reflect the views and aspirations of almost every tenant in my ward, ward 15, and Councillor Walker's ward also.

Exactly one year ago yesterday, on August 18, 1990, the New Democratic Party issued its election manifesto. It was entitled An Agenda for People. Under the heading "Rent Control," the agenda stated:

"New Democrats would bring in rent control. That means one increase a year based on inflation. There would be no extra bonuses to landlords for capital or financing costs. It's simple, it's fair, and it avoids the bureaucracy which has frustrated both tenants and small landlords."

This was not a rash promise made by a candidate in the heat of an election battle. It was a political party's carefully considered policy statement. It was a clear, unambiguous and solemn pledge made to the tenants of Ontario. It promised one increase a year based on inflation with no extra bonuses to landlords. Tenants had every reason to expect it to be honoured.

Instead, the promise was broken. Bill 121 does not embody the rent control system outlined and promised in An Agenda for People, not by a long shot. Yes, it is an improvement over all past rent review legislation and tenants do appreciate that, but it certainly does not protect tenants from increases above the rate of inflation. It does not honour the promise so clearly made that there would be no extra bonuses for landlords.

Before dwelling on the negative features, let me recognize two welcome improvements in Bill 121. The most important of these is that at last the financial loss provision has been killed. This is the provision that encouraged speculators to flip the buildings and force tenants to pay the mortgage costs. I have been campaigning with Councillor Walker against this ripoff since long before the Cadillac Fairview scandal made it notorious.

When I appeared before your committee in support of Bill 4, the rent moratorium, I described the case of a run-down building in my ward. A rent review order for the building stated, "The financial loss of $193,896 is due to increased financing costs resulting from a purchase of the residential complex." I described the plight of an elderly couple whose rent had increased from $780 a month to $1,034 a month because of three financial loss increases of 5%, plus the guideline.

I trust this prohibition will not be tampered with before Bill 121 becomes law.

Another positive feature of Bill 121 is that it will allow tenants to challenge a rent increase or to apply for a rent reduction on the grounds of poor maintenance. How much bureaucratic wrangling this will take remains to be seen.

In June, Ontario's largest and most respected tenants' organization, the Federation of Metro Tenants' Associations, said, "The government's new rent legislation is a big disappointment," and so it is.

The worst feature is that rent increases for capital expenditures have not been eliminated. The agenda clearly did promise no extra bonuses for capital costs. In spite of this, Bill 121 does allow for an extra bonus of 3% a year for capital costs. This means that if the guideline is 5.4%, landlords may obtain rent increases of 8.4% a year, and it is built into the rents for ever.

The Metro tenants' federation has said, "Rent increases above the rate of inflation are to be the norm under Bill 121." This is rent review. It is not rent control. The impoverishment of tenants, young and old, will continue, creating serious social consequences.

Last December, a report from the city of Toronto's commissioner of planning quoted from a study made in 1986 which revealed that 68,600 tenant households in the city of Toronto faced affordability problems and that the

situation today was relatively worse, which means they really cannot afford to pay their rent. The tenants were in fact spending more than 25% of their income on rent. Some poor people are paying 40%, 50% and even 75% of their income just to keep a roof over their heads. And people wonder why, in this rich society, we must have food banks and why more and more people are forced to use them.

I appeal to this committee to recommend to the government that it enact its original proposal for one increase a year based on inflation. After all, the income of tenants does not keep up with the inflation rate, let alone with rent increases of 8.5% a year.

It is with a heavy heart that I make these comments. I and tenants I represent have worked for 16 years to achieve real rent control and we believed it to be within our grasp. But alas, the landlord lobby is rich and powerful and it has shattered our hopes. I would like to say that I believe our Minister of Housing was spooked by the landlords.

The original proposal for rent control limiting increases to the rate of inflation has been unanimously endorsed by Toronto city council. At its meeting of May 27 and May 28, 1991, city council adopted a comprehensive report on the government's green paper on rent legislation prepared by me and Councillor Michael Walker.

Here is the most important recommendation adopted by city council, which reads, "That council reaffirm its position on rent control in Ontario; that is, that there should be one fixed annual increase based on the rate of inflation, with no exceptions, and request the Minister of Housing to honour the NDP pre-election promise of 'one increase based on inflation' when drafting the new rent control law for Ontario."

I would appeal to the committee, and through you to the Premier and the Minister of Housing, not to approve Bill 121 in its present form. Justice demands a better, a fair deal for tenants who are being impoverished by rent increases they cannot afford. Fairness demands that a rent control law as defined in An Agenda for People be enacted. The agenda itself said of its proposal, "It is fair." Yes, it was fair in August 1990. It is still fair a year later in August 1991.

The Chair: Thank you, Councillor Gardner. Councillor Walker, do you have anything you might want to add at this point, or do you want to leave the time for questions?

Mr Walker: Just briefly, the other two portions of the city council resolution Councillor Gardner referred to were, "that council request the Minister of Housing to impose heavy fines on landlords who are found guilty of failure to meet legal maintenance standards and the Residential Rental Standards Board should be empowered to impose forfeiture of a rent increase, not merely suspension, as now is the case"; and, "That council urge the Minister of Housing to consider the establishment of a capital reserve fund as a possible solution to the capital expenditure problem, such a reserve to be funded by the landlords out of the guideline increase and by other means and not from any extra charge imposed on tenants."

Councillor Gardner and I suggested among ourselves that the deposit is an instant source of those funds, the deposit of the first and last months, and that this is a way to give a shot in the arm to the argument that the reserve fund will take time to build up, and in the interim, what are we going to do?

Councillor Gardner said it all. There should be a portion of everybody's monthly rent that is put back into the building to keep it up. That is what you and I do if we own a home. A lot of landlords do live within the guideline and maintain their buildings. There is no reason why all of them cannot.

1540

The Chair: We have time for one question each.

Ms Harrington: I thank Councillor Gardner and Councillor Walker for coming, and we certainly appreciate the resolution of the city of Toronto. It is going to help us.

First of all, I must say that this is the best tenant protection we have ever had and we are struggling to make this a model for all of Canada or even all of the world, that a system here will work. It is going to be very difficult and we need everybody's help to make it work.

I would like to tell you that during our consultation process, which has taken a good part of the last year, we have listened to a lot of people, and what we have come to see as the reality, not just in Toronto but across the province, is that there are these large buildings which are 20 to 30 years old and need major repairs. This is something we have had to come to grips with, which of course is the difficulty of the pass-through and the capital cost involved in that.

I would like to say that rent control is not the whole answer to the problem. It is a partial answer. We have to look at all the options, such as the options you have proposed here, the capital reserve fund and using the money that you have, the first and last months' rent, in that kind of system.

I would like to finally say that I see a problem, and that is that this legislation is on top of previous legislation which was very unfair and the whole system was askew. There are very low rents; there are very high rents. This has led to a real difficulty for us. We cannot go and right the sins of the past.

Ms Gardner: I would just like to know where the low rents are. A lot of people ask.

Mr Tilson: Ms Gardner, you referred to a building on Eglinton Avenue, and you did that on Bill 4 as well.

Ms Gardner: Yes.

Mr Tilson: My understanding is that as a result of actions taken by you and some other councillors, rent at that building doubled from what it was before. I guess my question is, given the number of tenants around this province who cannot afford any increase, what recommendations do you have to this government with respect to those individuals?

Ms Gardner: I want to comment on your first comment that due to something that we have done, the rents in those buildings have doubled. Actually it was not what we had done. It was because the building had flipped every year, and every year the tenants were—

Mr Turnbull: Not true.

Ms Gardner: You must not be thinking of the same building.

Mr Turnbull: Ben Axelrod owned it until the city—

Ms Gardner: I am not talking about the Axelrod buildings; I am talking about entirely—

The Chair: Order, please.

Ms Gardner: The Axelrod buildings are history. They are owned by the city of Toronto. I am talking about a private rental building.

The Chair: Order. The question has been put and we have had an answer. We are not going to debate the answer.

Mr Walker: That's a social housing project. They are rent-geared-to-income.

Ms Gardner: Eighty per cent of the rents in the Axelrod buildings are geared to income.

The Chair: Order. Thank you for your co-operation.

Ms Gardner: That is not the building I am talking about at all.

Mr Brown: I think you put very well the disgust people have with politicians who make cheap election promises which they seem to have no wish to fulfil. My question for you, though, really relates to your responsibilities as municipal councillors or aldermen, and that is, with regard to Cityhome, do you think it should be subject to rent control or rent review or whatever you want to call this beast, and if it is not, do you expect that the city of Toronto should undertake its own form of rent control if that were available through provincial legislation?

Mr Walker: Excuse me; 80% of the units in Cityhome are rent-geared-to-income. The others are market rents. It is under the legislation that is imposed.

Ms Gardner: By the province.

Mr Walker: By the province and the federal government. There are restrictions upon that. I notice the submission from the labour council basically supports non-profit co-ops being exempt from rent review.

Mr Brown: But the question is, should they be subject to rent control?

Ms Gardner: They reflect the market rents in the neighbourhood.

Mr Walker: The low end of the market rents.

Ms Gardner: Yes.

Mr Brown: So they should be subject to Bill 121.

Mr Walker: If you control the market rents in the neighbourhood, you will in effect be controlling the market rents—only the market rent units—in Cityhome projects because they are the only ones affected. All the others have a subsidy.

Mr Brown: But should they be subject to Bill 121, the same as everybody else?

Mr Walker: Ideally, they should be, yes.

The Chair: Thank you for your presentation. I wish we had more time.

80 ST CLAIR AVENUE EAST TENANTS ASSOCIATION

The Chair: The next presenter is 80 St Clair Avenue East Tenants Association.

Mr MacKenzie: I am a little startled by the timing. I thought you were running a touch late. I thought I was scheduled for 4 o'clock, but I am quite prepared.

The Chair: No, we are on schedule. We are efficient. Just relax. You have 15 minutes and you can reserve some time for questions and answers.

Mr MacKenzie: I will do the very best I can. There was material to be distributed. I assume that has been or is being done.

My name is Ken MacKenzie, as you gather. I have been the chairman of the various subcommittees that have been fighting a rent increase since 1986, which we won and finally lost. The gentleman with me is one of the tenants in the building, Mr Max Rhodius. However, I will be doing the talking and answering the questions. I will be reading the first part. The reason I wanted you to have it is because there are references to appendices. I gave it to the clerk. I do not know what happened.

Mr Brown: It is coming.

Mr MacKenzie: This submission—you will notice it is called Unfinished Business—deals with known inequities which have not been resolved by Bill 4 or Bill 121. It has been prepared in the hope that the committee members will consider it carefully, realize it illustrates a situation that is unfortunately not only quite common but prevalent, and then take the necessary steps to prevent an obvious injustice both in this particular case and the many similar ones.

First, the background: 80 St Clair Avenue East is a typical building of 307 suites built in 1970. It had a perfectly normal repair problem. In 1985 to 1987, extensive repairs were carried out to correct corrosion problems in the underground parking garage. The total cost was very contentious through the years but finally set at about $1 million. Financing was through a second mortgage with no direct investment whatever by the landlord.

Logically enough, the landlord applied for a rent increase to have the tenants pay their portion of the cost. There is a commercial parking operation which is not relevant to this submission. There was all sorts of controversy and prolonged delay for reasons which are of no consequence to this committee.

Eventually it got to rent review services in 1988. We did not at that time object and never have to this day objected to paying the costs once they were established, but we did point out vigorously in oral and written submissions to everybody we could reach at rent review services that the regulations, as they were written at that time, and it is almost as it is now, specifically called for capital expenditures to be "amortized over the anticipated useful life of the expenditure in the form of a blended equal annual payment of principal and interest." That is what the regulation said. This obviously meant the payments were to stop at the end of the statutory useful life and should not be subject to any increase during that period. It is simple English.

Rent review services ignored all submissions to all levels and issued an order without any stated reasons whatever—just a bunch of numbers—which in effect added an amount to the rents then being paid as the capital expenditure allowance. That amount was to be subject to all future percentage increases regardless of the useful life of the asset involved or the dollar amount of the capital expenditure involved. To add insult to injury, the amount was calculated by determining the amount that would have been appropriate if the regulation had been followed literally. This is quite obviously a grotesque absurdity, as you will see shortly.

The tenants appealed to the Rent Review Hearings Board, a very long and very stormy hearing until about 1:30, from 7 o'clock. Eventually, after about a year, the Rent Review Hearings Board released its decision. In an absolutely unique but commendably fair decision, the Rent Review Hearings Board ruled that the tenants were absolutely correct and that they did not have to pay more than once for the same repair, and that what they had to pay was to be limited to the cost of the repair. Common sense and fair play did triumph.

The landlord was not satisfied with having the tenants pay the entire applicable cost of the repair, but appealed to the Divisional Court to have the excess payments restored so that tenants would once again be compelled to pay vast sums of money for absolutely nothing, after having paid the cost of the repairs.

1550

At this point, we tried to get the Ministry of Housing to support the Rent Review Hearings Board order in and out of court but it did nothing and has never really explained its lack of support in this crucial and precedent-setting case. I doubt if very many of you even knew this case existed. The landlord unfortunately not only won the case in Divisional Court but the tenants have been ordered to pay legal costs. We will not be proceeding to the Court of Appeal. There is no point without the support of the Ministry of Housing or the Rent Review Hearings Board. This is a very sad end to a five-year fight for justice.

Very quickly, and this is where the appendices come in, the present situation: The tenants are now obligated to pay steadily increasing amounts for ever and ever rather than the actual cost of the repairs. This is discussed and illustrated in appendix A that follows the first yellow sheet. There is a three-column table first. The first column indicates the payments we are actually making each year, when you total them up and when you take the actual amounts for the first six years with the remaining years based on the average escalation for the first five increases. The second column is what the Rent Review Hearings Board said was absolutely required to pay the total cost of the repair. The third column, of course, is the excess. When you go down to years 11 and 12 the amortization period is over and the entire payments are excess payments.

If you flip to the next page you will then see the thing on a chart for those people who prefer graphs rather than columns. The red line represents the required amounts; the green line shows what is happening to the payments we are making—very distressing. If the graph were properly drawn it would look worse because—each little square is $5,000—we would have a page that would be much longer.

That is what is going on. Our case is not unique, it is one of hundreds of buildings with thousands of units involving millions of dollars for both necessary, in our case, and unnecessary capital expenditures, for many others. You all know about the marble lobbies and the golden taps and all that rubbish, and of course this is precisely why those things were done.

Every tenant or tenant group that has ever raised this issue has strenuously objected to paying any more than the actual cost of capital expenditures. No landlord group, to my knowledge, has ever asked publicly for anything more than cost recovery. You heard UDI which was sitting here earlier this afternoon talk about cost pass-through. I was here earlier when the Fair Rental Policy Organization of Ontario was here. I have their very large booklet, which I am sure you have. You will not have had time to digest it but in that massive submission of theirs—I have been through that with a fine-tooth comb—never once do they ask for more than the cost. Nobody is asking for more than cost.

Appendix C is the third one in. It is just an advertisement from last November from the Fair Rental Policy Organization and the only reason I have it in is, if you look down the lower left-hand corner, the part that is fairly badly smeared, it says, "If Mr Cooke announces a rent freeze which eliminates cost recovery"—again landlords are asking for nothing but cost recovery; the tenants are saying let's have cost recovery. To make it even worse, no Ministry of Housing document dealing with annual increases or capital expenditures has ever pointed out the absurd overcharges that result from this process.

If you look in appendix D, the last one, you see The 1991 Rent Review Guideline. I will give a loonie to anyone who can read that and find anywhere in there, one sentence, one phrase, one word that would give a tenant a clue that the capital expenditure allowance built in is going to be increased by the amount of that. No formula will work if it is not applied to the proper base. If it applied to anything other than the operating cost, it is being improperly applied.

With all the uproar about marble lobbies and golden taps, there is no doubt whatever that the Ontario electorate believes the NDP is committed to correcting this nonsense. Our hope is that this promise will be kept. That is the unfinished business. It was not kept in Bill 4; it is not kept in Bill 121 as it sits.

Specific recommendations: I am not a lawyer; I am a chartered accountant. Therefore these are not phrased the way a lawyer would put them. You should put legislation in place to ensure that capital expenditure allowances specifically put into rents, under any legislation, past or present—I want to get that old legislation if only because we were told by the courts that the reason we lost was that the Rent Review Hearings Board could not make a prospective decision. I do not want anyone telling you you cannot make a retroactive one because then where do I go? If anything is put in there as an increase and further increased through the years by the annual percentage increases, it be taken out of the rents at the later of 1991—that would catch all the ones that may have been completed by now—

or the year following the year in which the capital expenditure is finally fully recovered. If the landlord never gets the cost back, leave it in. Once it is back, take it out. What is wrong with that?

That is recommendation one. Recommendation two: Do one of two things in all new capital expenditure allowance calculations. One, you can either keep it separately and not have it subject to annual increases, or two, use some common sense on the initial calculation and bear the upcoming increases in mind when calculating the initial year.

This I have discussed in detail in appendix B where I have set out the appropriate mathematical formula for doing it and show—I have taken a mythical $100,000 and shown what you do with an equal annual payment—the dreadful thing that happens if you simply increase it annually, and then I have shown what would happen if you calculated the proper initial annual payment. Again, there is a graph accompanying that one. I am not going to go into it in detail, although of course I am prepared at any time after this to meet with any or all of you to go over any of the mathematics of the thing and explain it in further detail, but it works. What happens? The only assumption you have to make is for the average increase in rents per year for the useful life that is coming up. That is all you have to make. The rest of it is a given. You have the interest rate, whatever it costs to finance it, what has to be repaid and the number of years.

The only other thing I have brought with me and I am not going to go into this one because it would take a further point. People have mentioned that subsection 78(2) in the old Residential Rent Regulation Act, that talked about when you replaced an asset for the second time, when you had to repair it for the second time, you reduced the amount the landlord could even talk about as a capital expenditure allowance by the cost of the initial repair. Everybody thinks that does something wonderful for fairness and equity and it is absolute rubbish.

What I did was to take what happened in our building. It took 16 years for the garage to fall apart. I said: "Okay, it'll take another 16 for it to fall apart again. I will calculate what it would cost to replace it 16 years from now, assuming a reasonable inflation rate. I will use a normal, equal, annual replacement cost." Then you get that chart and you will see one line goes right off the top of the thing altogether. That is the way subsection 78(2) operates. The way it should operate is one or the other of the ways down below. I understand that same flaw is repeated in Bill 121. It is just a useless thing. It does not do anything for anybody. If you think that is beneficial, rethink it.

That is very quick, dirty, loud and perhaps abrasive. Any questions?

The Acting Chair (Mr Brown): We certainly have some.

1600

Ms Poole: I did not find it dirty, loud or abrasive, so that is to your benefit, I guess. I just want to be very clear that I understand what your final premise is. Part of it is based on costs no longer borne. Once it is paid for, you do not have to wait until the landlord replaces it to be taking into account that the rent should be decreased. Immediately after that is paid for it should come out of the rent. The second point you are making, if I am not mistaken, is that instead of just going on the base rent, they are going the next year on the base rent plus the increase. Is that what you are saying?

Mr MacKenzie: I did not think that is where you were going, but that is an objection to it, yes. Very seriously, if they are going to have a capital expenditure allowance, it should be left alone and not increased, if they are going to have it on the basis that they are calculating it now. If they want to calculate it on the revised basis that I have suggested here, then there is no real problem. But it is just insane to calculate it on a basis which deliberately says there will never be an increase and then feed that into a formula with an increase. That makes no sense whatever.

Ms Harrington: This time I will not get into a model for the world, although you are going to help us make this into a model piece of legislation. Thank you very much for a very clear example of the costs-no-longer-borne problem, and I want to thank you for coming and listening all afternoon and coming last week as well, or two weeks ago and for all the math and the graphs you have done. It really is appreciated.

I wonder what would happen if you showed this to the landlord groups, what their response would be. I want to say one thing to you and that is that the costs-no-longer-borne issue is something we are definitely looking further into. One way that has been suggested to deal with this is have the capital charges separate from the rent so that the tenants themselves can see what is what.

Mr Turnbull: You are absolutely correct in stating that, and I have followed your case with some interest over the period you have been challenging this through the courts. To me it is obvious that you should not keep on building rental increases based upon a capital cost allowance. It should be a flat charge. But let me put it to you this way: Statistically, it is about an average of 17% of household income that is spent on rent in this province. You may find that in your building it is vastly more than that on average, but nevertheless, throughout the province an average of 17% is spent on rent. Would it not be more reasonable to look at some way of unwinding rent control and making sure we go to people who are least able to pay their rent, and in that way, not control artificially one part of the sector. You, as an accountant, must be dealing with people who are profit motivated, and at the moment we have buildings which are not making any money, and we are just compounding the problem with successive layers of legislation which take little account of the original intent.

Mr MacKenzie: I do not have a great deal of quarrel with anything you say there, and I undoubtedly was naive in 1974 or whenever it was. I really thought that rent control, whatever it was dubbed at the time, was a temporary measure. Like income tax, it has turned out to be.

Mr Turnbull: We know about that.

Mr MacKenzie: But bear in mind that I have not said anything here other than—I am prepared to have the tenants pay these costs.

Mr Turnbull: I understand what you are saying.

Mr MacKenzie: We are not trying to penalize the landlords in any way, shape or form. If anybody could develop a sensible program that would provide the housing that must be available as soon as you start loosening rent control, then I will move to your riding and vote for you.

DAVID SIMMONS

The Acting Chair: Our next presentation will be from David Simmons. The members will know we have already distributed Mr Simmons's brief.

Mr Mammoliti: Perhaps I may—just before we get to this—ask Mr Turnbull where he gets the 17% figure.

Mr Turnbull: It was presented to us at the Bill 4 hearings by the Ministry of Housing, George. If you go back to your notes, you will find it there.

Mr Mammoliti: Do you recall what it was called, though, David. I am just curious. I want to look into it.

Mr Turnbull: We asked the Ministry of Housing what the average—

The Acting Chair: Maybe you could do that privately. Mr Simmons, the members have your brief. You have 15 minutes to make a presentation to the committee. You may want to reserve some of that time for a period of discussion with the committee. Perhaps you would introduce yourself for the purposes of our Hansard.

Mr Simmons: I am David Simmons. I am a 31-year-old businessman with a wife and two kids. In January 1989 I purchased a 24-unit apartment building in Brantford. The rents were very low, and I realized that I would lose some money in the first couple of years. Using the guideline rent increase, the rent review system, with a lot of hard work, which I was prepared to do by absorbing my family's labour for free, after two or three years I had no doubt that my building would be breaking even. I would have a well-maintained building, good tenants, fair rent and would be breaking even. We studied and relied upon the rent review system to help us raise the rents legally so that we would cover the building expenses and the building would be breaking even.

Well, it has been two and a half years. I have a very nice, well-maintained building with good tenants. The rents have not changed accordingly and are still not fair. My costs have increased far more than my rental income.

This building was going to provide a little extra income to pay for my children's education and later supplement my retirement income. I borrowed $75,000 from my parents, $25,000 from my wife's parents of their retirement money. They are not rich. I am not rich. They put mortgages on their houses to obtain this because it seemed like a pretty safe investment under the current laws when I bought. All of my life's savings that I have worked hard for are in this building. Everything I own is in this building. Now, because of the NDP government, this building is my worst nightmare and I am stuck with it. I am faced with the inevitable reality of losing my building, all my life savings and my families' homes.

I have had considerable financial loss in the last two or three years, which was expected—maybe not quite this much—but I was supposedly going to get it back through phase-ins under the rent review system. I have lost some $70,000: $16,000 in the year 1991. In September 1990 I was granted a rent review order which allowed me a 5% phase-in in April 1990, another 5% in 1991 and so on until the loss in the first year was brought down. This was also going to help bring the rents up to market level—which are ridiculously low—and it is not fair at all that they should be kept that low. It is ridiculous.

With Bill 4, I lost a 5% phase-in April 1, 1991. That works out to $3,925.17 in rental income that I have lost for this year. Using just a standard 10% cap rate, that has reduced my building by just about $40,000. Now Bill 121 is coming in and I am not going to get any more phase-ins for financial loss. I am going to be stuck with just increasing the rent at the guideline level. I am going to be buried. I am already buried.

Over the next four years, the rent review order that was all legal, issued and everything, was going to allow these 5% phase-ins, which would have worked out to about $17,000 in rental income over the next four years. I have lost that, which works out to about $216,000 off the value of my building over the next four years. I cannot afford that, and there is over $150,000 of my own money with that $216,000.

With Bill 121, it is easy to see how damaging it is going to be to me. It is going to reduce the value of my building by more than $250,000. I am going to lose more income of $73,000, not counting what I have already lost. It is like with Bill 4, I have my throat sliced and I am bleeding to death, left for a year and a half, and now, Bill 121 is coming in and saying, "Oh, here is a little bit of guideline at 3%." Meanwhile, I am losing 5% all that time.

1610

Mr Cooke's statement to the Legislature said financial loss was often used to make tenants pay for the costs of the landlords' investments. Mr Cooke said himself that it is not just someone's investment; it is the tenant's home. Why should they not pay for it? Why should the landlord pay for the tenant's home? Why should I pay for the difference between what it costs to supply the living accommodation and the price that is paid for that living accommodation? Why should I pay the difference out of my pocket? Maybe I should just give them a box of groceries, too.

As for selling, I cannot afford to sell. I would lose all my equity and my family's homes. It would be disastrous. I would sell in a minute if I could just break even. I have had it. I just want to get out of this business after all this crap. But the thing is, who is going to buy it? No one is going to buy it, especially with the threat of Bill 121, and I cannot afford to sell it, so I am just waiting until I slowly die, go bankrupt.

My operating costs have increased overall probably about 19% or 20% this year alone. I got a 5.4% guideline. I have gone further down, further backwards. It would not be too bad if I could just snap my fingers and I would have maximum market rents and everything might be okay then, but I cannot. I am being forced to keep these rents way below.

Just for an example, the average market rent in Brantford for 1990 was $485. My rents, for a large two-bedroom apartment, are $400 until April 1992, when I get whatever little bit of an increase. My one-bedroom apartments rent for $367. If there were no guidelines, I would not gouge anybody, if all this rent control control was taken away. I would raise them to a fair market rent so that I could rent out the apartments. I use these figures: $550 for a two-bedroom—in Brantford there are a lot of people paying $600 or $700 for a two-bedroom that is in nowhere near as a good shape as my building—and $475 for a one-bedroom.

In my submission I have listed all my expenses. I have estimated in the last four months, but it is what I have spent in this year, 1991. It is costing me $522 for a two-bedroom apartment and $435 for a one-bedroom. That means I am subsidizing the rents of the two-bedrooms by $122 a month each, and the one-bedrooms by $68 a month each. It works out to $27,514.08 that I am subsidizing the tenants' accommodations in my building. That is hardly fair. Most of them can more than afford double the rent. Most of the tenants in my building have a higher gross income than I do, and all of them have a higher net income after I subsidize their rent.

Maintenance and work orders: Just because a few landlords before took advantage of tenants is no reason to make my life miserable. I have a very well-maintained building, with clean halls and recently repaired roof. All the apartments are freshly painted, hallways clean, laundry rooms clean. All the maintenance is current. To prohibit rent increases because of a maintenance order is ridiculous. The only reason the maintenance would be lacking is because of a lack of cash flow in my personal circumstances. It has been that way ever since I bought the building, and I have put my own salary and my own work and my family's work in to keep it well maintained. There is not anybody who can say my building is not the cleanest in town. It is a clean, well-maintained building.

I would like to know what the definition of the term "neglect and inadequate maintenance" is. I hope it is figured out before they start accusing people of offences under the act for these things and go out to people's houses, break in with a search warrant and take some pictures of my personal belongings or whatever they want to do.

Changes in interest rates are not considered in this bill. What if my interest rates go up 20% next year from 11%? This would mean a direct payment increase to me of $5,219.31 per month. I cannot afford that. Why should I have to pay for that?

In Mr Cooke's statement to the Legislature he said that he listened to the tenants but only heard the landlords and that he recognizes my situation. Well, if he recognizes my situation, why does he not do something about it? Is he going to let me go bankrupt? It is going to ruin my life and my family's. It is not fair at all.

The Chair: Would you like to include some time for questions and answers? There is about a little more than four minutes left. It is up to you.

Mr Simmons: Yes, a couple of minutes. Garbage removal costs are not included in this bill. They have skyrocketed. They have doubled and they are going to double in the future as well.

I have read the bill all the way through and there is no good news for me at all. It is only bad news. The idea that two guideline rent increases—I have 24 units in my building. What am I? Huge? Rich? Why should I pay and get less of an increase? It is not fair. My operating costs have not been reduced from 66% of what they were based on before to 50% of the inflation costs. They have not done that. I am also being penalized here for having all my units in one building. That is not fair either. I used to have them all scattered out, but now because I do not, because they are all in one building, I am being punished.

To have tenants able to pay 12 monthly equal instalments of money owing to me? I have to wait even longer for money owing to me? I am going broke here. To have them able to leave the apartment, to leave the province or the country is crazy. I can see them pulling up in limousines to come give me my instalment.

The powers of entry, search and seizure: What is this, a Russian movie or something, like we are criminals? Maybe it is justified, but it is frightening. Who says it is justified? Who makes that up?

The power to reconsider: You can change your mind after a year. Decisions are already made.

I demand that Bill 121 be thrown out. Second, I demand compensation for relief of hardship and financial loss and for the capital expenditures I have already done, or allow me an increase of 8% above the guideline for three years—this should straighten me out. Bill 121 is just not fair at all to me. It is going to bankrupt me. I am not out to gouge anybody, but I do not like being taken advantage of. Why should I go bankrupt just because my rents are below market and nobody wants to raise them a couple of bucks?

The inevitable end: It is very shattering. Everyone keeps saying to me: "Why don't you do something? That's not right." Here I am, trying to do something. It seems hopeless trying to deal with a socialist government that does not listen to me and is trying to bankrupt me.

It is a very bleak future to look forward to, knowing that if Bill 121 is passed I will probably go bankrupt, knowing that my parents and in-laws will probably lose their houses over this, and right when they are ready to retire, they will be put on welfare or something, knowing that I will lose everything, things that I have worked so hard for all my life and knowing that my credit rating will turn into dirt. It is just disastrous.

The worst part is knowing I did nothing wrong. I had a sound financial plan when I bought. It was under the old rent review system and everything was all planned out, thought out. I was not going to gouge anybody. I was not going to take advantage of anybody. It was to secure a future for my family. It has been ruined. I have done nothing wrong and I have to go to all this trouble just to fight for my rights so that I do not die without saying anything and go bankrupt. It is just totally unfair.

1620

Mr Winninger: A substantial portion of your expenses, Mr Simmons, relate to your financing costs. I gather you were expecting to recoup them by increasing the rent over the first few years of ownership.

Mr Simmons: One of the reasons my financing costs are so high is because I lost my phase-in and I had to refinance for a higher amount to pay for my property taxes that I could not pay for.

Mr Turnbull: What are your actual rents, on average, in the building and what is market rent in the area?

Mr Simmons: My maximum legal rent for a large two-bedroom right now is $400; $367 for a one-bedroom. The Brant and Brantford Housing Authority released a figure that in the year 1990 the average rent in Brantford was $485. I am not sure if that is a one-bedroom or a two-bedroom, but even if it is a two-bedroom, it is still way out of proportion. Those were 1990 figures. I am charging $400 for a large two-bedroom and I cannot raise it until April 1992.

Mr Turnbull: Are you under any pressure about the refinancing of your building?

Mr Simmons: Yes, I have been.

Mr Turnbull: Will anybody refinance it?

Mr Simmons: With Bill 4, I lost my 5% phase-in and my financial institute held back $33,000 of financing. I had to really scurry around, trying to make up that $33,000. Luckily I talked my second mortgagee into increasing the second mortgage. It was supposed to be temporary, until this was all sorted and I got my phase-in, but we all know I am not going to get my phase-in. This January or February they come due and that is probably—

Mr Turnbull: Thank you for the good presentation.

The Chair: Mr Simmons, thank you for your presentation. I apologize again for the mixup earlier on.

Mr Simmons: Thank you for the time to express my views. I hope everyone reads my written submission. It is all true.

ADVOCACY CENTRE FOR THE ELDERLY

The Chair: Next is the Advocacy Centre for the Elderly. I apologize again to you too for the little mixup earlier on. We will be following the same procedure, 15 minutes. You can withhold some time for questions.

Mr Monticone: My name is George Monticone. I am here on behalf of the Advocacy Centre for the Elderly, which is a legal clinic for low-income seniors.

I am in rather a dilemma today because I am asking this committee to include a group of people under a piece of legislation that I am not entirely happy about. I am not going to talk about why I am unhappy about the legislation. You have heard the sorts of things I would say from other groups, in particular Metro Tenants Legal Services. Their brief has been attached to my written submission and I have indicated to you the ways in which I agree with their submission.

I would like to focus on the first issue; that is, I would like you to include a group of people under this legislation which apparently you have decided not to. Many of the clients of the Advocacy Centre for the Elderly live in either boarding or lodging homes, rest and retirement homes or institutions such as nursing homes or hospitals.

The first of those, boarding and lodging homes, clearly were brought within the scope of the predecessor legislation, the Residential Rent Regulation Act. The second of those, the rest and retirement homes, are somewhere out there in limbo, and the third, institutions such as nursing homes and hospitals, apparently quite clearly have been exempted under Bill 121.

I want to focus on the rest and retirement homes segment, although some of my comments would also apply to boarding and lodging homes.

In April 1989 the Office for Senior Citizens' Affairs released a study called Findings of the Survey of Rest and Retirement Homes. At that time, they indexed 550 homes under that rubric, and some 23,600 tenants. I think it is quite safe to say that number has increased, so we are talking about somewhere over 25,000 tenants at this particular point two years later.

All of those kinds of places I mentioned—boarding and lodging homes, rest and retirement homes and institutions—have one kind or another of personal service associated with them, such as meals, nursing care, attendant care, house-cleaning services, laundry, shopping and so on.

The rest and retirement homes vary tremendously in their size, from what we might call mom-and-pop operations with only a few suites and a few tenants to very large institution-like places which, at first blush, would appear to be something like nursing homes.

The Advocacy Centre for the Elderly is asking this committee to address this particular problem now. Do not allow Bill 121 to go forward without addressing it.

As we speak, there is a commission called the Lightman commission, headed by Dr Ernie Lightman, that is making recommendations, I assume, as to what to do about this particular segment of the accommodation industry. We do not know what his recommendations will be, but they could quite possibly be recommendations that would involve Bill 121, would involve the new rent control legislation, and I would hate to see the situation of this bill being passed into law and then finding that you have recommendations which require that it be amended. My strong suggestion is that you look at what the Lightman commission has to say before allowing this bill to go forward.

More specifically, we are asking that you eliminate clause 3(1)(e) which exempts accommodation of various kinds, including accommodation occupied "for the purpose of receiving care." If you eliminate that exemption, you will bring the rest and retirement homes under rent regulation.

There are those who will say that rest and retirement homes have these care services associated with them. Some do. The degree to which they do varies, but the point I would make with this committee is that does not alter the fact that all of these places offer accommodation and it is accommodation which this piece of legislation is supposed to regulate. That is why we are asking you to bring this segment of the industry under the act.

Second, we ask you to bring the services which are offered in rest and retirement homes and similar facilities under the rent regulation act or under some other regulatory scheme for the simple reason that if you do not do so, landlords will raise the costs of personal services to offset what they perceive to be shortfalls in their rent. If that were to occur, that will either force some seniors to move out—lawyers like to refer to that as constructive eviction—or it will force some seniors, those who remain, to pay very high service costs. You have a situation potentially where you have very reasonable rents being paid by a senior and exorbitant costs for, let's say, meals or attendant care.

Our written submission outlines some of the difficulties with bringing services under the rent regulation scheme. We also suggest some of the solutions to those difficulties.

There are difficulties relating to separating the costs of services from accommodation. There is a difficulty implied in the idea of regulating the cost of services, which is that would amount to regulating perhaps the costs of wages of service providers. If that is a solution you do not like, my suggestion would be to ensure that wages are exempt from the rent regulation scheme.

There are 10 additional points we have set out at pages 2 and 3 of our submission. These are more general points relating to the structure of the act. I do not propose to go over those at this time. I would like to reserve the remainder of my time for questions.

1630

Ms Poole: Thank you for your presentation today and for bringing this issue before us. My understanding is the reason the government did not proceed with putting rest and retirement homes into this legislation was that it did want to wait for the results of the Lightman commission, which, if I am not mistaken, is supposed to be in September.

Ms Harrington: October.

Mr Monticone: Yes.

Ms Poole: This legislation probably will not go to third reading until after that particular point, so if indeed the Lightman commission does recommend that rest and retirement homes come under it, we will at least have some opportunity prior to the final passage of this legislation to include it.

I would like to ask you about some of the reservations that some of the rest and retirement homes expressed about being in this type of rent control legislation. One of them was the cost of wages, which in many cases did go up significantly and could not be controlled under rent regulation, and you alluded to this point. The second was the fact that if they were forced to try to separate the care component and then to offer services on a—what is the word I want?—not-mandatory basis, they could not function. They were basically saying that when they set their rates at the beginning of the year, they have to be able to rely on having a certain level of services used by their residents and it would create chaos within their system if people opted in and opted out and created problems. Would you like to comment on those two points of view that were brought up.

Mr Monticone: I am certainly pleased to hear that this committee would not allow this to go forward without hearing from the Lightman commission.

Ms Poole: I am not quite sure I phrased it in that particular way, but certainly it would be our hope the Lightman commission would report prior to final passage of this legislation.

Mr Monticone: There is a difficulty relating to economies of scale, I suppose, for providing certain kinds of services. One in particular comes to mind, which is found in many rest and retirement homes: an emergency call bell system with a nursing station, with somebody always present to respond to a call. It is relatively costly, I assume, to provide all of that. I assume also that it is something a landlord would not undertake without being assured of being able to recover the cost of that type of service.

That kind of service differs significantly from a service such as individual nursing care, where somebody might wish to hire a nurse to come in for an hour or a day to administer an injection or some such thing. Those kinds of services are pay-as-you-go and they can be accounted for in terms of some kind of hourly rate, but the other type of service, yes, is a difficulty.

In our written submission we made it very clear that we believe it should be possible for landlords to decide which services are offered on a mandatory basis and which are not. That is a key element of our proposal. There is a great need for flexibility out there in offering services to seniors and to the disabled community and we do not want to see legislation come in which will limit that flexibility, so it should be possible for landlords to offer certain services on a mandatory basis and others on an optional basis. We do not believe which is which should be stipulated in the legislation.

The Chair: I am sorry; we are going to have to move on to the next questioner or she will not get equal time and Mr Mammoliti will have a point of order.

Mr Mammoliti: Mr Chairman wants to be funny.

Ms Harrington: I appreciate your coming before us. This is the first presentation we have had in this regard, I believe. I understand from talking to some of the people in rest and retirement homes, and the people who provide this service as well, that there is a fair amount of concern out there on both sides and I am glad to see you have put so much time and effort into looking at the issue.

What I wanted to ask you was, have you spoken with and are you aware of the position that is being taken by the association of rest and retirement homes?

Mr Monticone: I am aware that a proposal for a piece of legislation was put forward by that association to the previous government. I do not know beyond that.

Ms Harrington: They have expressed to me their concerns about being included in this legislation. It would be good, if you are in direct contact with them, to try to see exactly what their position is and why and what their concerns are so that we could try to work out some kind of middle ground.

Mr Monticone: I would not want to suggest we are in direct contact with them. Our relationship is a cool one at best inasmuch as we represent tenants who have challenged owners of rest and retirement homes under the current legislation.

Ms Harrington: I see. Okay.

Finally, I just want to say that the position of our government is that the seniors are people we have to have a great deal of concern and care about, and certainly as much as other tenants. We are awaiting the results of this study, I believe to come down in October, and we will then have a look at it.

RICHARD A. FINK

The Chair: Richard Fink: Sir, you have been allotted 15 minutes and you can reserve some time for questions and answers.

Mr Fink: I have provided written remarks. I am not going to repeat them. I just want to make the central points.

I have done rent review representation on behalf of tenants for 15 years. In 15 years of sitting at hearings for hours on end I have had a lot of time to reflect on rent review, and my general opinion is, to use the vernacular, that it is stupid and should be abolished.

The rent review legislation we had under the Liberal government was on the generous side to the landlords. It resulted in a case our office was involved with called the Balliol injunction case, where for the first time in western law in the past 500 years of recorded decisions tenants tried to stop renovations from being made in order to avoid a rent increase.

In the past, prior to that decision, which was approximately 1989 and 1990, our office had been involved in trying to force landlords to do renovations. These cases in our office of forcing landlords to do renovations have involved practically every notorious landlord in the city of Toronto. We were successful in our office in 100% of the cases. We achieved damages, we achieved injunctory relief forcing the landlord to do the repairs, and in 100% of the cases the tenants were not happy with the result.

The reason is that maintenance in a building is much more than simply fixing the roof, putting the cable television back on, repairing some holes in the walls. It is the day-to-day concern by a landlord to make the tenant's life somewhat reasonable. If the landlord is absolutely determined to avoid punitive damages and to avoid the injunctions of the court, then he can make the tenant's life so miserable that it is a sawoff—nobody wins.

1640

In the current legislation, the proposal is that we are not going to give the landlords too much money for capital repairs, but we still expect them to do all the necessary repairs. We are going to give them no more than 8% and change, but we are still expecting them to do the repairs, even if it is going to cost the landlord what would be under the old system an 18% or 19% rent increase. If they do not do the repairs, we are going to penalize them and take away rent increases. We will do various other things which, by the way, in my opinion are outside the jurisdiction of this legislation. It infringes on the Landlord and Tenant Act and federal jurisdiction.

Nevertheless, because of my experience, my opinion is it is just not going to work. We even had a case where the landlord was going to be put in jail by the judge. He was in contempt of court. He managed to do some salutary repairs and satisfy the judge for a while, and then the situation simply returned to where it was.

The legislation currently, and I would add this as an aside, has no appeal procedures. Historically throughout rent review tenants have been extremely dissatisfied with the first level of decision-making. This legislation has no appeal procedures. The decision-making at rent review has been poor throughout the course of 15 years. There is no reason to expect it is going to improve. Without having any appeal, there is no opportunity for second thought.

My expectation is the landlords' response to this legislation will be civil disobedience. The institutional landlords will comply with the legislation as they wait out and hope the legislation changes. Individual landlords, even those holding large buildings but also smallish landlords—for instance, they hold only a couple of buildings, perhaps 200 or 300 units—will rebel against this legislation. They will go to court and challenge the constitutionality. They will appeal everything and will be as obstructionist as possible, obviously because they are not getting money for their repairs. The losers in this whole battle are going to be my clients, the tenants.

There is a very simple solution which I have been proposing to the past three governments, including this one, and which I have been proposing for about 10 years. The solution is to have tenants buy their own buildings. They are the only ones who care about maintenance. Since they are already paying for capital repairs now under the current system and under the past system, they may as well enjoy the benefit of it. They have already paid for financing the building through financial pass-through. In the future, they are going to be paying for capital repairs. They should have the benefit of the buildings themselves.

The simple solution would be to have the two thirds of the tenants who can afford to buy their units buy them and pay a surtax or a surcharge for the one third who cannot afford to buy their buildings. I use this two-thirds/one-third formula from the studies done by the city of Toronto called Living Room I and Living Room II, which say one third can barely afford their current rent and two thirds can.

Units would be sold to the tenants as owner-occupiers. One third of the units, which would be also paid for by the people who are buying the units, would be put into a trust held by the government to use at no cost to the government. Those tenants who refuse to buy their units would simply pay the rent to cover carrying costs of the units.

This would be the end of rent control. Rent controls should have been a temporary system. It is a stopgap effort. It makes no one happy. I have spoken to approximately 2,000 tenants since this legislation was introduced. I have spoken to 5,000 tenants since Bill 4 was introduced. They are unhappy with both pieces of legislation. They have a sense of foreboding. They are not satisfied that this legislation

s going to protect them for very long. They see a landlord backlash and they are going to be the main victims of it.

I suggest the legislation go back to your ministry and be completely redrafted, with some new ideas rather than the old, tired ideas simply shuffled between tenants' concerns and landlords' concerns as to whose ox is gored, how much rent is paid and who takes on what responsibility. Change the situation. You have taken all the landlords' property rights away—you heard this from one of the landlords who spoke about half an hour ago—and left them with nothing except managing the building, which is really not much right, given that they do not have much flexibility, and expect them to behave as appropriate Ontario citizens. To me, it is just dreaming, having had dealings with landlords, big and small, rich and poor, Liberal and Conservative, for the last 15 years.

I would be happy to answer any of your questions.

Mr Tilson: Mr Fink, I agree with a lot of what you say, but I would like you to clarify. For tenants who cannot afford rent increases, where is the money going to come from to purchase their unit?

Mr Fink: The city of Toronto says that two thirds of the tenants could afford more rent; they can afford their current rent and they could afford more rent. If the tenants all had to buy all their units, the two thirds who can afford it, for $70,000—which would be quite a bargain given they sell for $120,000 in the private marketplace and they cost $150,000 to replace—if they all bought their units for $70,000 and the landlords were expropriated at $45,000 or $50,000, this additional $25,000 would go to pay for a trust for the other one third who cannot afford their units.

Mr Tilson: Why would they buy the buildings when it is quite clear that it is going to be impossible to maintain them?

Mr Fink: Let's say the average building needs $10,000 per unit of repairs, which has to be paid for one way or another. Even at $85,000 or $80,000 the units are quite a bargain. You can go on Eglinton Avenue today and it will cost you $130,000 or $140,000 to buy one of these equity co-op units. So at $80,000 they are quite a bargain. My associate, who lives in one of Ms Poole's buildings, said: "No, I'm not interested in buying one of these units. The building's crappy. It's falling down. Who needs it?" For these people, they would simply have to pay the rent to carry the cost of the government buying the unit, of putting the one third in trust, of capital repairs the general membership voted on, as well as daily maintenance. His rent may go up from $800 to $1,100.

My position is that tenants should be forced to run their own buildings. They should be forced to take charge of their living accommodation, not keep whining, "I want this fixed, I want that fixed, but I don't want to pay for anything." They should also be forced to consider the buildings as their homes, if they do not already consider their buildings their homes. Many do, and I am sure Kay Gardner was here earlier telling you that. It should be forced legally and economically that they are their homes. They are not the landlord's homes. To the previous landlord I just heard, and I am sure you have heard dozens of them already, it is simply an investment. The quagmire will never be solved as long as it is an investment for one and a home for another.

Mr Turnbull: Mr Fink, I agree with your approach—I am surprised—but I am alarmed about one expression you used about expropriating at $45,000. Let's say, hypothetically, that a landlord has owned a building for four years, and bought it for $55,000. I hope you are not suggesting that they make that loss.

Mr Fink: I am suggesting the buildings be bought at their fair market value, whatever it is.

Mr Turnbull: Okay.

Mr Fink: If the landlord loses, then he loses. Fair market value, though, is the only way I can see buying them.

Ms Poole: Thank you for your presentation. I can say it has certainly been one of the most interesting and creative we have had. Leaving aside the solution you have proposed, because I am not terribly optimistic that the government is into new solutions, and going back to the maintenance issue and how Bill 121 deals with it, instead of a carrot-and-stick approach, it is basically a stick-and-stick approach.

From your comments here, are you saying this approach is not going to work?

Mr Fink: I do not think it is going to work unless the act remains in place for about six years, because for two or three years there is going to be what I would consider every means employed to try to frustrate the intent of the maintenance re buildings.

Ms Poole: If you just had to look at the work orders and the maintenance provisions, the rent penalties as expressed in Bill 121, how would you change that to make it more of an incentive for the landlord to do the work orders and to ensure they are being done?

Mr Fink: This is the essential problem with rent review. It never can achieve a balance. For each time you legislate something, there is a reaction. If you made the penalties more draconian—for instance, imprisonment—this would cause landlords to pay some attention. The result of that is going to be that landlords become even more frustrated with the system and react with even more hostility.

If you use the Liberal government's definition, which was, "We are going to give them all types of incentives for the repairs," then you get repairs being done without any value. You get the repairs being done for the sake of repairs, and the giant increases my clients experience. There is no middle ground. If I knew of a middle ground, I would come here and tell you today.

1650

Mr Mammoliti: Thank you, Mr Chairman. I have to disagree, by the way, with Ms Poole. We do want to listen to new ideas, but as my colleague has said, we are too busy fixing up the Liberal mistakes.

I want to touch on the new approach you mentioned to buy the units: two thirds that can afford to, one third that cannot. What do you do about the complete opposite; for instance, the Sorbara buildings that are in my riding, and the new order that was given, a 33% increase to a lot of the tenants who are now economically evicted because of that order? They obviously cannot afford to buy the building

either, because they have to move out; they cannot afford the rents. What do you do in a case of the opposite—one third that perhaps can afford it, and two thirds that cannot?

Mr Fink: If you have one third that can afford it and two thirds cannot, so that you are going to have—what you are saying is shuffling around. I have not given it a lot of thought. I am simply going on the statistical generality in the city of Toronto study. Perhaps the tenants in North York are poorer than the tenants in the city of Toronto, but I do not have any statistics.

Mr Mammoliti: What do you do about the Sorbara buildings? What do you do about those buildings that have crippled the tenants because of these terrible rent increases?

Mr Fink: The problem in the Sorbara buildings is that the rents went up by 33%. What you are finding is that tenants are not going from the Sorbara buildings into condominiums, and they are not going from the Sorbara buildings into shelters; they are going from the Sorbara buildings into cheaper accommodation. I have seen tenants in the Sorbara buildings go from one Sorbara building to another Sorbara building. In fact, Mr Sorbara will rent his units out at a lower rent than he got from rent review if you are coming in, because he is having trouble renting them at the rent he is asking for.

The essential problem with those buildings is that rent review should have been made more retroactive. You were told that at a meeting the other night where tenants wanted more retroactivity. The problem with those buildings is the old legislation.

The new legislation I am proposing assumes that two thirds will be able to buy the units. I think if you look at it from that perspective, a lot of your constituents want to own a piece of property. Their goal is to actually own a house at some time. They would bend over backwards, scrape up money, perhaps take in subtenants in order to be able to afford to buy their own unit. I think the desire to buy a piece of property, a condo or real property, is a very pressing one among the population, and I think you might even find more than two thirds would want to buy it.

Mr Mammoliti: Would co-ops be an answer?

Mr Fink: The problem I see with co-ops is that you are then going to have to tax the two thirds who are wealthy in order to subsidize the one third who are not wealthy, because we do not want the one third subsidized out of government revenues. Why would two thirds want to subsidize the one third when there was absolutely nothing in it for them? I am just assuming everyone will operate in their own best interest, and they might be willing to subsidize in the purchase price for someone else's interest if they thought they were getting a bargain, which at $65,000 or $70,000 it would be.

The Chair: Thank you for your presentation, Richard.

Mr Fink: Sorry it was not longer.

Mr Brown: Yes, we are too.

The Chair: You will have to speak to Mr Mammoliti about that.

JOHN D. TODD

The Chair: John Todd: John, we will follow the same procedure, 15 minutes, and you can withhold some time for questions and answers if you wish.

Mr Todd: A copy of the paper I have prepared is being passed around right now. It is a little lengthy, so in the presentation I will just give you some brief highlights.

The central theme of the study is, to rewrite an old adage: If it's broke, fix it. The Ontario system of rent regulation is broke; now is the time to fix it. That means it should be replaced, not simply patched up and repainted so it can hobble along for a few more years.

A major part of the study examines how tenants have fared in terms of the incidence of rental housing affordability problems since the introduction of rent regulation in 1975. Several observations emerge from the analysis that I would like to bring to your attention.

If you turn to page 8, figure 1, tenant affordability problems are sufficiently widespread that relief of affordability problems should be a priority in developing and evaluating housing policies in Ontario. Figure 1 shows that roughly one tenant in four pays more than 30% of household income in rent. That means three in four pay less. Thirty per cent is the normally used cutoff for whether or not a tenant has an affordability problem.

Figure 3 on page 10 shows that virtually all households with incomes below $10,000 have affordability problems, while few with incomes above $20,000 have affordability problems. In the $10,000 to $20,000 range, there is a substantial portion, but not the vast majority, that have affordability problems. Policies intended to deal with affordability problems should primarily benefit households with incomes below $20,000.

There is a table on page 13 with a lot of numbers. You probably will not want to really look at it closely at the present time, but it shows that women seniors are the most in need of housing policies that will alleviate affordability problems. Senior-led households are twice as likely as non-senior-led households to be in core need. Female-led households are two and a half times more likely to be in core need than male households. Single mothers are a particularly seriously hit group. One in five single-female-parent households are in need, compared with one in 17 two-parent households.

Clearly there is a need for substantial help on the affordability front. The proportion of tenants with affordability problems is not significantly higher in urban centres than in rural centres, but household incomes below $20,000 are significantly more likely to have affordability problems in major urban centres. In the low-income area, the size of city makes a difference.

What has rent regulation done to help out on the affordability front? Figure 12 at the top of page 18 shows that during the first six years of rent regulation—really seven years, but the data available were for 1976 and 1982—affordability problems were on the decline in the early years. Most classes of tenants were paying less of their incomes in rents after seven years of regulation than they had been paying in the first year.

After the initial period, 1976-82, which is shown on figures 16 and 18 on pages 20 and 21, the incidence of affordability problems has increased. The increase is particularly noticeable, if you refer to figure 18, in the $10,000-$20,000 income range. There, since 1982, the proportion of households with affordability problems has increased from 31.5%—less than a third—to 52.9%, or over one half. The number of households in this range with affordability problems increased from 55,500 to 114,500. Clearly problems have become much worse since 1982.

In summary, Ontario's system of rent regulation has failed to ease the plight of low-income renters who suffer from severe affordability problems.

1700

The experiences of Quebec and British Columbia are also reviewed for comparison. Comparing the provinces indicates that the trends are dominated by underlying economic conditions. However, there is evidence that tighter regulation holds rents down on average, but restricts the availability of moderate price rents for low-income households. Rent regulation appears to reduce affordability problems overall by a small amount, while significantly increasing the incidence of extreme affordability problems. It helps the average but hurts the low end.

Looking at why these trends have been seen, referring to table 2 on page 31, you will see that incomes have been rising much more rapidly than rents. The explanation for the increasing affordability problems does not lie in declining income relative to rents. In addition, at the present time the supply of socially assisted units is growing, not fast enough to make a significant impact itself on the affordability problem, but fast enough that it should be at least keeping pace. An absence of socially assisted units is not the explanation for this worsening of affordability problems.

It leaves two explanations for the worsening of affordability problems: First, the loss of low-priced units which were replaced by higher-priced renovated units, a turnover in the stock; and second, the competitive disadvantage suffered by low-income households relative to high-income households when they are searching for bargain units in a tight rental market. In other words, low-income households are put at the bottom of waiting lists when they are looking for an attractive, low-priced, good unit in the market. It is the moderate-income or higher-income tenants who get those good units, so the low-income people who most need assistance are the ones who are left out in the cold and are not helped by the long-term effects of rent regulation.

What are the long-term consequences of rent regulation? A restrictive system such as Ontario's clearly discourages investment. Reduced investment increases affordability problems in the long run, because the regulated market price is higher than the competitive market price would be in the rental market. The regulated market price is the price that new buildings can get because there is a shortage, or the price an old building can get if it gets its legal rent increased. You end up with a two-tiered market. One tier is higher than rents would be in the absence of rent regulation. The other tier is the core stock, which has been effectively controlled since 1976, where rents are lower. That ends up being prejudicial in terms of how it is allocated to households in need.

What is perhaps most damaging is that by keeping rents down, the cost to government of subsidizing market units in social housing developments has been increased. As a result, funds that should have been available to increase the supply of rent-geared-to-income units have been diverted into subsidizing market units. In addition, the attention of government has been diverted from the affordability problem of low-income households to dealing with the availability problem, which has been spawned in part by rent regulation.

So where do you go? Instead of proceeding with Bill 121, the role of rent regulation needs to be redefined. Since 1975, the design of Ontario's rent regulation system has been driven by concerns about its impact on the affordability of housing. This is not an appropriate role for rent regulation. The reasons are as follows: Although rent regulation is a universal program, affordability problems have not been reduced by it. Alternative measures would be far more effective in reducing the affordability problems. Although rent regulation can make rents more affordable for many renters in the short run—this is not the same thing as eliminating affordability problems—doing so is self-defeating in the long run. Affordability problems are increased by the allocational biases that work against low-income households, as I have already discussed.

When the affordability goals are pursued by rent regulation, the goals set out in the Housing Framework for Ontario: Issues for Consultation can be compromised. The role that would be appropriate for rent regulation would be to focus on the secure rather than the affordable part of the first principle set out in the framework document. Rent regulation can stabilize rent increases. It can protect tenants against both economic eviction and discriminatory rent charges without compromising the availability of rental housing. This role can be served by what we call a moderate system of rent regulation. This is defined in the paper.

Social housing is the primary instrument being used in Ontario to provide effective relief to core-need households. Unfortunately, social housing programs can only reach as many households as there are units. An alternative that could be used to assist all core-need households is a shelter allowance. Even if it failed to reach all core-need households for administrative reasons, which is the experience in other jurisdictions, the takeup rate would easily or effectively exceed the takeup rate for social housing in Ontario for many years to come, or many decades probably.

It is difficult for me to understand how even the strongest proponent of social housing could oppose the concept of providing shelter allowances, at least to the tens of thousands of households on social housing waiting lists. A shelter allowance could be phased out if and when the social housing stock is expanded to the point that is adequate to meet the needs of housing assistance in Ontario.

The Chair: You have about three minutes left. You can save it for questions or you can continue on.

Mr Todd: A workable system of rent regulation would balance the objectives of affordability and availability in the rental housing market. The primary obstacle to any move in that direction is the argument that economic rents have exceeded market rents since 1975. That argument is laid out in part 3 of the housing framework document. Since 1976, there have been some very severe bouts of inflation which have led to unusual economic conditions. The norm is not to have economic rents above market rents. Further weakening in land values or declines in inflation or interest rates would lead to an elimination of the current gap.

Consequences: The approach should not be to wait for economic rents to fall below the average market rent before introducing moderate regulation, but rather action should be taken now to bring in a moderate system so that confidence can be rebuilt, so that potential investors will believe there is a system in place that will treat them fairly and so that when that gap is eliminated investment will begin. That may be soon. If you look at the information provided by the framework paper, you will see that it has been declining since 1981 and is quite narrow now.

Having been the research director for the Thom commission, I just wanted to point out to you that the commission recommended a system of regulations similar in several ways to that envisaged by Bill 121. Both are designed to severely restrict increases in excess of standard guideline rates, but the Thom recommendations go a step further. They totally eliminate the cost pass-through. The feature that makes that possible is the proposal to establish a guideline for rent increases based on an adequate return on investment in the rental housing market as a whole. It would be very enlightening for the standing committee to revisit the Thom commission in detail before making recommendations on Bill 121.

The difficulty with the Thom proposals, as any other proposal for a system of moderate rent regulation, is that there may be some short-term pain for long-term gain. In easing the rent regulation system, you will aggravate affordability problems for low-income renters until confidence is rebuilt and availability problems are resolved to resolve those allocational difficulties. It is important that this short-term pain be alleviated by direct subsidization of low-income households. As noted above, the only way to deal with the affordability problem of core-need households in the short run is to introduce shelter allowances. If cost is a concern, then a partial allowance could be introduced. Almost any level of housing allowance would do more for core-need households, many of whom are at risk of becoming homeless, than the current or any proposed system of rent regulation.

The Chair: Thank you. The time for your presentation has expired. We appreciate your very lengthy and well-documented report.

1710

JENS GRAVLEV

The Chair: Jens Gravlev, we will follow the same procedure, 15 minutes, and you can withhold some time for questions and answers if you wish.

Mr Gravlev: I am Jens Gravlev, a private business man and a landlord. I am 45 years old. I live in Cobourg Ontario, approximately 55 miles east of Toronto. My wife and I own two buildings in Kingston, each of which is 50% residential and 50% commercial. The residential component consists of six apartments in each building.

Since I have been working in the mortgage industry for 21 years, I have a circumspect point of view on most issues involving real estate. The most important of these issues today is rent control. I have heard and discussed points of view on both sides of the issue. I have reviewed the legal case of Haddock and Haddock versus the Attorney General where the Federation of Metropolitan Toronto Tenants' Associations acted as intervenor. I have heard landlords plead to have the system modified while tenants' representatives make such misinformed assertions as, "Landlords are charging too much."

I do not wish to discuss the apocalyptic effect that rent control has had in other parts of the world where this affliction has existed for even longer than in Ontario. The stifling and inequitable results in every case are self-evident for anyone who wishes to look.

What I do wish to discuss is why rent controls are not right for Ontario as long as we are part of Canada. Canada is a country of people whose philosophy is that people of all groups are equal. In fact, our equality rights in section 15 of the charter goes one step further. It seeks the "amelioration of conditions of disadvantaged individuals or groups, including...those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

The obvious purpose is to establish parity between people both for rights and opportunity. Rent controls in Ontario have been passed in a piecemeal, ever-tightening process. Initially rent controls were concurrent with wage and price controls which were passed in 1975. Rent controls had little impact then, since they were established at current market rents and many buildings were exempt. Rent controls should have been dropped along with wage and price controls when it became evident that they too just did not work.

Rent controls would have been dropped had it not been for the anticipated political fallout from a large group of renters versus a small group of landlords. It is curious that landlords have not challenged rent controls with violence, as have other freedom-seeking movements such as suffrage, slavery, race equality, unions, etc. I believe government has achieved this muzzling by segmenting landlords into random subgroups: big/small owners of new/old buildings in good condition versus those buildings in a dilapidated state. The government's clever divide and conquer policy resulted in us landlords never achieving cohesiveness as have other besieged minority groups.

These landlord subgroups have never been strong enough to challenge the intrinsic human rights violation that rent controls present against landlords via sections 1 and 15 of the Charter of Rights and Freedoms. Rent controls have had the effect of financially crippling the challenger. Certainly for myself that is true. Additionally governments have consistently pervaded the notion that landlords are fat

or well financed. The government of Ontario, by its legislation and arguments for rent controls, has caused the population to believe that landlords need to be controlled, that landlords own the buildings and must have achieved this by ripping off the tenant.

The following are my reasons for abolishing, not modifying, rent controls:

1. Rent controls violate sections 1 and 15 of the Charter of Rights and Freedoms.

2. Rent controls force landlords, including myself, into a position of working without receiving pay. This violates Canadians' human rights and the employment standards code of Ontario.

3. Rent controls unfairly advantage one tenant over another tenant for similar accommodation.

4. Rent controls suppress the value of targeted buildings and therefore their assessment for realty tax purposes. Consequently, targeted buildings do not pay their fair share of education and municipal taxes in a community, resulting in an unfairly high assessment for tenants of new apartment buildings and owners of houses and other real estate. I know that it is not uncommon for tenants or house or condominium owners to pay three or five times more realty taxes than older rent control-targeted apartment buildings having equal accommodation. This disparity violates section 15 of the Charter of Rights since the tenants in new buildings and other property owners are unfairly disadvantaged.

5. Rent controls are not for the benefit of low-income people. Actually the speaker in front of me struck a chord there. Although some poor people may benefit, that result is a matter of luck. The ability to rent an apartment in a building caught by rent controls is a matter of timing and planning, attributes which by definition favour more affluent people. There are many examples of families earning $50,000-plus, paying $400 monthly in rent in a rent controlled building, just as there are examples of low-income families paying $850 monthly in rent of similar accommodation.

The caveat, therefore, to section 1 of the Charter of Rights, which reads, "Subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society," will not support rent controls.

Furthermore, pertaining to this inequity and to the inequity in realty tax assessment, rent controls offend the intent of chapter 6, item 6(b) of the Canadian Human Rights Act, which states that, "It is a discriminatory practice in the provision of commercial premises or residential premises to differentiate in relation to any individual."

6. Rent controls have identified landlords as a group as being evil in society. While politicians have trod carefully, the current ruling government has labelled landlords as "fat" and "well financed" and with many other derogatory references.

During the last election, the NDP touted further rent control tightening as being part of its political platform. In conjunction with various negative remarks, I believe this violates the human rights act's part entitled "Hate Messages."

7. Rent controls can, and are, in many communities, having the effect in newer buildings of actually increasing rents over market. Since market demands vary, landlords, like any supplier—in a free market system—would lower rents if vacancy increased. That is the basic law of supply and demand. Under rent controls, many landlords leave their apartments vacant rather than lower rents since the rent controls prevent rents from reverting with the market to the previous level, since the permitted increments may only be applied to the new lowered level. This situation is occurring in my home town of Cobourg and in Port Hope now, according to an article in the Cobourg Star quoting Kathy Sheppard of rent review services.

8. Rent control administration is incredibly expensive. According to my information, the Ontario government spends $33.5 million per annum to administer this system, which has absolutely no productivity whatsoever other than benefiting those tenants who luck out. In fact, I submit that landlords spend an amount equal or more than $33.5 million per annum trying to comply with the system. I have certainly spent my part.

I propose that we could close down this bureaucracy and spend $33.5 million to help people who actually have a need. This amount would allow us to support, for example, 10,000 apartments by $279 a month.

9. Rent controls support the notion in our society that something is available for nothing. Such organizations as the Metropolitan Toronto tenants' association arguing for rent control represents only a self-serving interest and should carry no more weight that any other citizen's group protesting the price of gasoline or cereal.

10. Rent control is effectively a subsidy to some tenants which the government of Ontario has designated some landlords to pay. This legislation is as ridiculous as it would be for the government of Ontario to single out a group such as all the citizens of Toronto to pay one-third of their income to other citizens of Ontario. This concept could be supported, just like rent controls have been supported, by the fact that the average resident of Toronto has more wealth and earns more than people outside Toronto. In fact, politicians could even justify their actions by such scurrilous remarks as "Torontonians are fat" or "Torontonians are well financed," as have been used to label and categorize landlords as a group, and more specifically as an evil group.

Last, the caveat to section 1 of the Charter of Rights, if used successfully to justify the limitation of action of landlords, can also be used to justify the actions in this example.

11. Rent controls should not stand alone. If tenants' associations can make a case for rent controls, then the same case can and should be made for other necessities of life, namely, food, clothing and transportation.

12. Rent controls are a political tool. There are approximately 3 million renters in this province, who probably all assume that rent controls represent some sort of abatement in their accommodation cost.

1720

This voting bloc is not ignored by political strategists. They know that appealing to this group at the cost of oppressing a minority group of landlords is a key ingredient for being voted into power.

The implications of political parties pleasing one group at the expense of another group for political power is shocking, but precedents are many in history, sometimes

quite infamous. Such discrimination against landlords and their categorization as an evil group, as a predatory group, is immoral, as much as discrimination is against any minority. As in other pogroms, confiscation of property follows targeting. While that may sound dramatic, I speak as someone who is threatened with losing my house and my apartment building.

The discrimination is the same. Landlords are categorized by government as an evil group and their property is confiscated. The basics are identical, except that the confiscation process of rent controls is slower and couched in rules and regulations which are not comprehensible to anyone but the dedicated expert—in fact, the master I sat in front of indicated to me that he could not understand a lot of the rules—and the rules are changed regularly to confuse even further.

Bill 4 is further evidence of the Ontario government's victimization of landlords. Like me, thousands have renovated their buildings, induced by government to spend millions of dollars based on a formula for rent increase phase-ins. These phase-ins were set in writing by the Ministry of Housing through a process concurred with by each and every one of the tenants in my building, just as they were by all of the tenants of various buildings that have had this done. The reneging of these phase-ins by Bill 4 is a breach of contract to me as a landlord and constitutes premeditated theft by the government from the landlords. I cannot stress too strongly the gravity of this fraud.

In summary, our political system will be the subject of intolerable abuse if the courts are convinced by tenants' associations to take such a narrow view in the matter of rent control. It will seal the fate of any other group, such as tenants in newer buildings, auto workers, plumbers, home owners, even members of competing political parties, which may need the protection of the Charter of Rights. Rent controls, without universal wage and price controls, offend every fibre of a society which aspires to parity. The only solution for obtaining dignity and fair rental prices is supply. I ask for your support, not just for the landlords, but for all Ontarians who are discriminated against by rent controls.

Mr Brown: I appreciate your presentation. My concern is that this bill is likely to pass. The people over there have more people than the people over here.

Mr Gravlev: Right.

Mr Brown: What in your particular situation is going to be the outcome? By that I mean, if you survive bankruptcy, what will you do? Will you be able to do the maintenance you would like to be able to do? Will you not be able to do it?

Mr Gravlev: I am not doing any maintenance of the building now. I cannot. Through an error in the system to start with, my rents were marked back from $650 to $300 approximately per month. The situation I have is that I received phase-ins based on the work we did to the building, and when it comes time to renew my mortgage, I am not going to get that mortgage renewed. I do not know what is going to happen, but the Wellington Trust Co holds the mortgage for that building. I cannot show coverage. I showed a 1.2 coverage when I went into the transaction with them. My rents, at the point where I renew the mortgage, are going to be $25,000 a year less than they are now.

Mr Winninger: It seems to me that when rent review favours your position as a landlord, you think it is okay. You mention in your brief—

Mr Gravlev: I am sorry. You cannot say that.

Mr Winninger: Just let me finish this. You mention in your paper that you looked forward to taking the benefit of the phase-ins under the RRRA. Yet now that the rules have changed, you think rent control is abhorrent. I have difficulty with that contradiction.

Mr Gravlev: The phase-ins were part of a contract which was done between me and the government by which I spent $150,000 on my building, and the government has now reneged on that contract. So whether or not you perceive it as being to my benefit or not is immaterial, because the fact of it is that there was a contract which was agreed to by the tenants, agreed to by the Ministry of Housing and agreed to by me. I had a building which people could not live in. We spent $150,000 on a six-unit property, and it is of no benefit to me. That is why I say it is renege.

Mr Winninger: There might be a more compelling argument if tenants were on an equal basis with you in determining what future changes are made to the building and how they are going to be reflected in rent.

Mr Gravlev: With all due respect, the tenants could not live in the building. The building was empty when I bought it.

Mr Tilson: Your remarks obviously show a great desperation, and I certainly sympathize with them. You have given to Mr Brown your comments as to where you will unfortunately end up. What about the tenants of your building and buildings like your building? What is going to happen to them?

Mr Gravlev: The tenants in my building are extremely affluent. My building happens to be in downtown Kingston. The market rent is approximately $750 a month today, but whether they or their families were paying $1,000 a month or whether they were paying $250 a month, they would be there.

Mr Tilson: But who is going to take over your building?

Mr Gravlev: I guess the trust company will, and they will probably sue me for the differential if I cannot pay it.

The Chair: Jens, thank you for your presentation. I am sorry we did not have more time for you.

PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

The Chair: The Provincial Building and Construction Trades Council of Ontario. Murray, we will follow the same procedure, 15 minutes. You can withhold some time for questions and answers if you wish.

Mr Tilson: Mr Chair, I must confess, just on a procedure as to where we are going this evening, that I had based my planning on the fact that I would have approximately half an hour after these hearings ended before the bus would leave. Obviously that is not going to happen. I have

o do something. Unless I leave right now, I am not going o make the bus, so I guess I am asking the committee's ndulgence either to delay the bus or excuse me. I want to tay and hear these people.

The Chair: We will delay the bus.

Mr Tilson: Thank you.

The Chair: I have been too lenient with the time oday. Every witness has gone over a couple of minutes, nd that is what happens when we allow that. Murray, orry to interrupt your presentation; 15 minutes.

Mr Gold: I will be brief, I hope, and to the point. I am ere for the Provincial Building and Construction Trades Council of Ontario, which represents unionized construction vorkers, approximately 100,000 of them, in this province.

We are not a traditional participant in this rent review, his rent control debate. We have become involved now ecause the situation seems to have polarized and there eems to be an impasse that is seriously affecting the construction industry. As a consequence, our clients find themelves drawn into this debate, not so much to help one side r the other side but to kickstart and resuscitate our indusy, which in some senses is simply caught in the middle.

I hope, though, that we are well situated to see both ides. Most of our members are tenants. Very few of our nembers are landlords. On the other hand, we are familiar vith the construction industry. We have some sense for the tate of repair or disrepair in the housing stock, and we ave made an effort to familiarize ourselves with some of he public policy concerns government has in dealing with his issue.

Our beginning point is that the housing stock in Ontario is aging and deteriorating. According to the 1986 ensus, some 60% of tenants in this province lived in units hat were 20 years old or older. Just like human beings, uildings age, and when they age they need work. Indeed, t is even the case that many newer buildings constructed vithin the past 20 years are in need of substantial renovaion in order to restore their structural integrity. So we egin with that problem, that being our expert perspective n the issue.

We have turned to an examination of Bill 121, and in ur view, that legislation is now approaching a fair comromise on this issue. It is clear that the government has istened to the concerns that we and others have expressed ver the course of the last number of months, and Bill 121 ow presents, in our view, a statute that is approaching a ery fair compromise.

1730

In our view, there are three issues, two for clarification nd one for change, that would be required to bring Bill 21 into alignment. The first is this: It is a technical issue, nd it relates to the 2% element of the guideline that has een set aside for capital expenditures. It is our understanding that the government's intent is that where a landord does apply for a rent increase above guideline as the esult, for example, of an eligible capital expenditure, the andlord is entitled to a rent increase equal to the guideline rescribed by the minister plus 3%.

Unfortunately the drafting of Bill 121 right now may not lead to that result. Some have interpreted the current drafting as providing that where a landlord makes an application for a rent increase above guideline, then the landlord loses the benefit of the 2% allowed in the guideline for capital expenditures.

That is not our understanding of the intent. Indeed, we think that interpretation is wrong, but it is one that has some basis in the legislation. Our understanding is that the intent is that where a landlord applies for a rent increase above guideline he must justify the 2% in the guideline that has already been set aside for capital expenditure. In other words, they must prove they have used that 2%. We have no difficulty with the intent. However, we have some concern that the actual drafting of the bill does not reflect it.

A second area of clarification relates to the timing of eligible capital expenditures. It seems to us implicit in the bill that an eligible capital expenditure must be complete at the time that the rent increase is put through.

On the other hand, it also seems to us implicit that the eligible capital expenditure may have been completed at any prior time since the effective date of the bill, after the transitional period, and not in the immediately preceding period. In other words, if an eligible capital expenditure is completed in 1992 it may be the basis for an application for a rent increase above guideline in 1995—no reason why not under the current bill.

However, there are no express provisions with respect to the timing of eligible capital expenditures and in particular the time when those expenditures can be relied upon to justify a rent increase in excess of guideline. So we would ask that be clarified and that it be made quite express that eligible capital expenditures that are undertaken after the transition period set out in the bill can be used as a basis for an increase of rent above guideline at any time during the currency of the bill.

Our final concern, our third concern, is with respect to the carry-forwards that the bill proposes. The bill treats large buildings and small buildings differently, permitting a two-year carry-forward for small buildings and a one-year carry-forward for large buildings.

In our view, that carry-forward period will be sufficient for many expenditures, but will not be sufficient for concrete restoration work. I am sure this committee has heard before, and likely will again, of the state of concrete deterioration in parking garages and exterior structures in the province. This is a problem that was not redressed by the building code until about 1987, and so although it is a serious problem in older buildings it is also a serious problem in newer buildings. The cost of concrete restoration work is very substantial. It is not necessarily a lot more substantial for big buildings than small buildings; once you are doing concrete restoration work, you are into a very significant expenditure.

Our concern is that the two-year and one-year carry-forward periods for concrete restoration work are not sufficient, that those carry-forward periods should be extended, and that careful thought should be given to an appropriate length of time for which those particular eligible capital expenditures for concrete restoration work can be extended.

Otherwise, we fear that the work will not be done in an expeditious way, that it will be delayed and postponed at great cost to everybody and at some safety hazard.

We are also concerned because concrete restoration work is a highly specialized area. It is an area our members perform work in. It is an area that supports many working people, and it is good work and necessary work and there may be a problem financing that work under the existing carry-forward limits.

Those are our basic comments on the bill. Overall, we find it to be approaching a fair compromise and we would ask for the two clarifications with respect to the 2% rule and the timing of eligible capital expenditures that can be used to increase rent above guideline, and we would ask that the carry-forward provisions with respect to concrete restoration work be extended.

Mr Tilson: Of the 100,000 construction workers who are in your association, are you able to estimate the job loss that Bill 4 caused, if any, and second, the anticipated loss if Bill 121 passes unamended?

Mr Gold: No, we are not able to estimate the precise level of job losses. We know the economy has been very severely depressed and construction unemployment has been very high over the last number of months. The last figure I saw in December was in excess of 20%, and anecdotal evidence suggests it rose somewhat after that. Some of that is attributable to Bill 4 and to the impasse over Bill 4. Some of it is attributable to the depressed economy.

In terms of Bill 121, as we say, we think that Bill 121 is approaching a fair compromise and it is now time to get down to work and to do this work, and we expect and hope that it will be done under Bill 121.

Mr Brown: You have obviously been having discussions with your employers, the contractors who do the work. Could you tell us what the outlook is for the construction industry as far as residential buildings go? This bill does have a provision of a five-year moratorium on rent control for new buildings. Are the people whom you are in contact with thinking there will be many more buildings built? Does your membership look forward to more jobs in both the maintenance, restoration and new building sectors?

Mr Gold: Our membership depends to a significant extent on restoration work, and this is why we have put the very substantial emphasis on concrete restoration. That is a key element of the employment scene at the moment, as you can appreciate, as I guess your question assumes. The rate of construction right now, owing to a great number of factors, is depressed. This is one sector we believe can be stimulated and should be stimulated at this time through Bill 121.

We believe that concrete restoration is a labour-intensive field, that it draws largely on union labour, and that it is necessary, important work and can be encouraged through improved carry-forward provisions under Bill 121.

Mr Brown: The other issue is energy conservation measures, which I presume your members would be involved in also, the replacement of buildings' windows, for example. Have we been seeing much of that in the last year, and does your membership expect to see more of it in light of Bill 121?

The Chair: A short answer.

Mr Gold: A short answer? I really am not an expert i the rate of exterior windows. It certainly is a big-ticke item, no doubt about it.

1740

Mr Duignan: Thank you, Mr Gold, for coming alon here this afternoon and putting an excellent balanced docu ment in front of the committee this afternoon. I am glad yo agree with us with what we have been saying all along, tha Bill 121 is a fair, workable compromise on the whole issue o rent control.

There is one question I would like to touch on ver briefly, and that is the whole question of concrete restoratio work. You are suggesting that the time frame we are talkin about is too short. What type of time frame would yo suggest or recommend?

Mr Gold: Our sense for concrete restoration is that w are dealing with a period that is substantially longer tha the two years. Unfortunately there is a certain dearth o data I can fall back on for a certain response. Nevertheless I guess our feelings are that we are looking at somethin that is perhaps in the 7- to 10-year range. We are looking a very substantial expenditures.

Mr Duignan: Do you have that information? Is i available?

Mr Gold: As I say, there is a dearth of information a all levels—from government and from private industry— as to the precise costs and figures.

Mr Duignan: Thank you again for your balanced pre sentation.

The Chair: Murray, thank you. We appreciate you brief.

COTOR MANAGEMENT LTD

The Chair: Helen Zavitzianos: Helen, you have been observing us all day, so I think you are familiar with the procedure the committee is using: 15 minutes and you can reserve some time for questions.

Ms Zavitzianos: Very good. My presentation is very short. First, I want to introduce myself. I am the principal of a very small company that keeps a stable of real estate portfolios for offshore owners. I am not an investor, but I have very grave concerns and I also have a social responsibility. I would like the buildings I manage not to have balconies falling off and garages collapsing.

We have had the same clients since 1968 and we still manage the original properties. In the residential we have one building with 159 suites, a fourplex, and a single family, so I have a pretty global feeling of what the small landlord is facing.

With the existing and past legislation, the amount of administration to try to keep up with the forms and the regulations has been tremendous. The fees we get are very inadequate and we cannot keep up with the latest legal requirements. But what really frightens us is the cap of 3%. Everybody thinks that you do retrofitting and you get 3% of the cost, with a 2% deduction.

I have worked on our particular situation. In order to justify the 3% you have to spend 5%. The 2% is taken off, so you can retrieve in the first year the 3%. Here we go. We have a rental income of $1 million. The garage restoration, very minor, was $500,000. Actually I would strongly suggest that you ask North York, Mr Marone or somebody—

Mr Mammoliti: Marone.

Ms Zavitzianos: Yes, and they have a visual presentation that shows what happens to garages and balconies. There is no preventive work that you can do there to prevent what happens, not that our engineers would know and advise. You see the Gardiner Expressway. If they knew how to preserve it, they would not be at it year after year.

We go back to the arithmetic: $500,000 the landlord has to spend. The first year with 3% he can only justify $250,000 from the bank. The second year you take the balance, so that $250,000 that remains, when you take the 2%, which is considered a disallowance, whatever, you can only justify $112,000. So you are there, you have spent $500,000 and you can only get, as a loan, $362,000. Where are you going to find the rest? The cost of garage preservation—they collapse. Some of have been sort of emptied. Where is the landlord going to get the additional $137,000 that the banks are not going to lend him? I think the 3% guideline is inadequate for the preservation of our buildings.

Then I compare the increase that the private landlord is getting with what Ontario Housing is getting. The history is about 10% a year, while the private landlord has been getting between 4% and 6% all along. This year my mother, who lives in a senior citizens' building, got a 7% increase in a new building. That represents $41. In our building, with lower rents, we get 5.4%. In our building that increase represents $29. In my mother's building, Ontario Housing, it represents $41. With a $41 increase you can pay the taxes, the electricity, what have you. With $29 what can you do? You are deeper in the hole.

Another item in the bill that I disagree with is the elimination of the appeal of an order. I find this is very undemocratic. I have an example of a landlord making an application and making a mistake and saying and thinking that cable is included. Then comes the order and the landlord is given the order based on paying for cable, while previously he did not pay. The order technically is correct. It is not a legal point to appeal on. It is technical. It cannot be done because the order is right. This is very unfair and only technical.

Another point is a search warrant if there are reasonable and probable grounds. Coming from Europe and going through a communist regime for a little while, I find this like a police state procedure. That frightens me. As far as I know, under British law all citizens are innocent until proven guilty.

Another point is that there is no provision for continuation of the Residential Rental Standards Board. I am not going to say whether the standards board is useful or not useful, but what I like in the standards board is that there is a forum for landlords, municipal representatives and tenants, and when there is an issue there can be a consensus. I think every government should have something where representatives of all parties can have an opinion and a dialogue outside of an adversarial climate.

I think a registry of buildings of from three to six units is expensive. What will it accomplish? In Toronto and outside there are vacancies. The rents are below even the rent registry. I hear the tenants in Mississauga tell you, "If you don't give us $200 reduced rents we'll leave," and there are lots of condominiums where they can go. There is no issue of keeping the rents down. The rents have gone down.

Also, I am very concerned about how this aging stock needs concrete restoration, electrical upkeep, fire marshal's orders, things that have to do with safety and health. With this 3% cap, how are the older buildings with depressed rents going to be able to get the increased rents to do those things?

In conclusion, I believe your efforts to mould Bill 121 should try to give the flexibility required within a reasonable financial framework for the landlords to operate, maintain their buildings and upgrade them to meet the constantly new safety and health bylaws. Some of them are really for the birds, but you have to do it. Why should you increase the railings in an inside stairwell when the opening is that narrow? You have to increase them and spend $20,000 to do that, to increase it that much. What is going to fall down there? The two stairs are so narrow nothing can go through anyway.

Try to find out what are the Ontario Housing costs to operate and upgrade and give the private sector something comparable.

I suggest the government should try to treat the landlords as partners who have provided accommodation about 45% less expensively than it costs the government and not to hound the landlords as criminals.

This is all I have to tell you and I thank you for the opportunity of hearing me.

Mr Mammoliti: You touched on the city of North York, an individual by the name of Mr Marone and a video.

Ms Zavitzianos: Because I saw his presentation.

Mr Mammoliti: In your opinion, how many landlords have taken advantage of such a video as the one you have described, one that will actually teach landlords how to protect their property?

Ms Zavitzianos: I do not think there is protection. I think buildings should be inspected every two or three years because even the inspectors do not know. The reason we spent only—

Mr Mammoliti: No, but the video you were talking about.

The Chair: There is a limit of one question. Mr Turnbull.

Mr Turnbull: Unfortunately I can only ask you one question. You touched on older buildings with depressed rents. As you know, in this legislation they have elected to go with the differentiation between large buildings and small buildings, the borderline being six or less for the small building. It seems to me that the older buildings with depressed rents would be more appropriate if you are going to have this type of legislation differentiate in terms of the rent increases. They are the very ones that are going to take more money because they are older and were under

rent controls. Do you think it would be more appropriate to differentiate between older and newer buildings as opposed to larger and smaller buildings?

Ms Zavitzianos: I think so. Of course, you have also a program for small buildings, but they have to be up to six storeys. A lot of older buildings are very old and they do not qualify.

Mr Brown: If I understood your presentation right, one of the things you are saying to us is that you are going to have a very difficult time maintaining the buildings you manage over the next period of time under Bill 121. You will not be able to do structural repairs, the repairs that are most necessary to buildings. You may have difficulty acquiring the financing to do them. Am I understanding what you are telling me fairly closely?

Ms Zavitzianos: Yes, in the future. You see, we have all these balconies. Last year, every balcony would cost $14,000 to repair. The tenants take their barbecues and in the winter they throw salt. You tell them it is not allowed, but how can you? The salt eats through the concrete. That is $14,000 on 100 units to replace these balconies. Where are you going to find that? This is a question of having the concrete fall on somebody's head. Actually we had a piece that big that fell off. It is something that does not give you any indication of happening. On the exterior restoration, we have concrete walls coming out. The exterior aspect did not show any deterioration at all, but when they started with water-blasting and hammering, it was horrid.

The Chair: Thank you for your presentation. Our time has expired. We appreciate your coming before the committee.

The committee has completed its agenda for today.

The committee adjourned at 1752.

CONTENTS

Monday 19 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1295
Ministry of Housing G-1295
Multiple Dwelling Standards Association G-1303
Kensington-Bellwoods Community Legal Services G-1305
Labour Council of Metropolitan Toronto and York Region G-1308
Urban Development Institute of Ontario G-1310
Kay Gardner, Michael Walker G-1313
80 St Clair Avenue East Tenants Association G-1315
David Simmons G-1318
Advocacy Centre for the Elderly G-1320
Richard A. Fink G-1322
John D. Todd G-1324
Jens Gravlev G-1326
Provincial Building and Construction Trades Council of Ontario G-1328
Cotor Management Ltd G-1330
Adjournment G-1332

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Standing committee on general government

Rent Control Act,1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

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Table des matières

La table des matières des séances rapportées dans c numéro se trouve à l'arrière de ce fascicule, ainsi qu'ur liste des membres du comité et des autres députés aya participé.

Il existe un index cumulatif des numéros précédents. Le renseignements qu'il contient sont à votre disposition p téléphone auprès des employés de l'index du Journal d débats au (416) 325-7400.

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LEGISLATIVE ASSEMBLY OF OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 20 August 1991

The committee met at 1001 in the Sheraton Hotel, Hamilton.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise he Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: The standing committee on general government is called to order. The committee is reviewing Bill 121, An Act to revise the Law related to Residential Rent Regulation, better known as the Rent Control Act. The committee is travelling throughout Ontario. We are pleased to be in the Hamilton region today. We have a full list of presenters for the morning and the afternoon.

SUBCOMMITTEE REPORT

The Chair: Before we hear from our first presenter, we have a short report from the subcommittee on a number of items that had been raised yesterday afternoon. I ask the clerk to read into the record the consensus that has been agreed to and the plan that has been agreed to by the subcommittee.

Clerk of the Committee: "At its meeting of today, August 20, 1991, the subcommittee agreed to recommend that the committee invite a representative of the Ministry of Energy with a request to have someone available from Ontario Hydro and a city building inspector to appear before the committee for a total of one half-hour each, with up to 15 minutes for a presentation and 15 minutes for questions from the committee, on the morning of August 27.

"It was further agreed that the committee would invite the Ministry of Housing to continue its briefing to the committee on 27 August at 11:30 and continue through the lunch-hour."

Mr Tilson: There was also an agreement, I recall, that the financial people would have a half-hour as well.

The Chair: Yes, that is correct. The committee has previously agreed to that. That will all be done on the same day.

Mr Turnbull: I would just like to go on record as saying I am extremely disappointed to see that we cannot have a representative of the Ministry of Financial Institutions. The implications of this legislation for the financial institutions are very significant, and Ontario may well rue the day that we did not consider the impact on financial institutions and the impact on apartment owners of not listening to this advice.

Mr Abel: I would just like Mr Turnbull to know that the subcommittee worked very hard on coming up with an amiable solution to the requests that were put before us. It was a compromise, give and take on both sides, and we felt it was important, we do agree it is important that these people who we agreed should appear would appear for the reason that we thought they had something to offer. We tried to avoid repetition and we felt these are the key people whom we could all benefit from. We felt the other request could be dealt with by the Ministry of Housing staff. I feel the subcommittee came up with a good, workable compromise.

Mr Turnbull: You may think this is some workable compromise. Essentially, what you have done has been horse-trading, and the interests of the people of Ontario have not been served well by horse-trading. As a result of this legislation, there is a serious implication for the financial structure of apartment building owners and also for the trust companies that lend. Unless it is examined, you might as well stop the hearings right here.

Mr Duignan: Playing for the cameras again, eh, Dave?

Mr Turnbull: This has nothing to do with cameras. We are talking about serious financial implications for this province.

Mr Abel: I am sorry that Mr Turnbull is not happy with the arrangement the subcommittee, including his colleague, has come up with, but I would like to suggest we get on with the public hearings. That is what we are here for.

The Chair: Your colleagues have their hands up. Do you want me to acknowledge them?

Mr Abel: Of course.

The Chair: Or should I pretend that Mr Mammoliti is—no, I will not. Mr Mammoliti.

Mr Mammoliti: It is in your best interest not to, Mr Chair. I want to reiterate what my colleague has said and just say there are a number of people, again, who want to present to us here today. Mr Turnbull, if you are going to start these rampages, I have something to say about that.

Mr Tilson: Listen to him. It is absolute bunk, what he is talking about.

Mr Turnbull: You have interrupted these proceedings and the Bill 4 proceedings more than anybody else, and you know that quite well.

Mr Mammoliti: Mr Chair, I do believe he is out of order.

The Chair: Interjections are out of order. The Speaker and many Chairs have said so many times.

Mr Mammoliti: If I may, Mr Chair, again, I could advise Mr Turnbull that everything will be okay and just to control himself somewhat, because there are people here who want to present to us.

Mr Turnbull: It is going to be okay. People will go bankrupt. That is okay.

Mr Mammoliti: What you are doing is stalling and wasting time.

Mr Turnbull: This is not stalling.

Ms Poole: In an attempt to bring peace to the family, may I just say that Mr Turnbull does have a very valid point about the importance of this bill to the financial institutions. However, we are having a member from the Canadian Bankers Association attend before our committee for half an hour for us to question very closely about the impact of Bill 121. I assume many of the questions Mr Turnbull wants to ask would be answered at that particular time. I suggest we move on to our presenters, who are patiently waiting.

Mr Morrow: If I can just go on Ms Poole's words, we have a lot of people from the Hamilton area here whom we do want to hear from. I would like us to move on and let all the grandstanding stop, if we can.

The Chair: Shall the motion of the subcommittee be adopted?

Agreed to.

1010

HAMILTON AND DISTRICT APARTMENT ASSOCIATION

The Chair: The first presenter for this morning is the Hamilton and District Apartment Association, Derek Lobo. Derek, you have appeared before our committee before. I think you know the procedure. I have to advise you that the committee has allotted 15 minutes for your presentation. You can reserve some of that time, if you wish, for questions and answers.

Mr Lobo: My name is Derek Lobo. I am a director of the Hamilton and District Apartment Association.

The day after the election, Bob Rae sat with his union masters and analysed the election results. "Who voted for me?" asked the Premier. "The tenants voted for you, sir." Bob Rae replied, "Go forth and make more tenants because I will need them in the next election." So the Minister of Housing, Dave Cooke, went forward and planned 40,000 communal units.

"Who else voted for me?" asked the Premier. "The union men voted for you," said Bob White. "Then go forth and create more union members. I will need them in the next election also." So the Minister of Labour, Bob Mackenzie, introduced laughable legislation to increase union membership and union power.

"Who else voted for me?" asked a jubilant Premier. "The poor voted for you, sir." "Then go out there and create more poor," said Bob. That is what Bob Rae has done best in Ontario. He has created more poor. Shamefully, he has created more poor. Then he has increased the welfare rates to keep them in perpetual bondage. These people are Bob Rae's vote slaves.

It besmirches me to appear before another one of Bob Rae's pitiful government committees. This committee and others like it are a sham, staged events that are more commonly used by illegitimate communist dictators to perpetrate unconscionable acts. Witness the recent events in Mother Russia. Mikhail Gorbachev has stepped down due to ill health, likely a distortion of the truth. In Ontario, true facts have also been distorted. Witness Bob Rae's gross distortions of 150% rent increases. This is a bold-face distortion of reality.

Let me first very clearly state that our problem is no with the people behind us. They are our residents. They ar our customers. This is not a landlord versus tenant issu Without our residents, we would not have jobs, we woul not have businesses and we would not have our livelihoo It is Bob Rae who has created the class strife where ther was none before. It is our Premier and his sympathizer who have exploited the tenants to make them believe the are victims. They are not victims. We are not oppressors.

Our problem is not even with the NDP backbencher here today. They are merely part of Bob Rae's façade o consultation. From the Bill 4 committee hearings it becam painfully clear that these were not the decision-makers. The strings are pulled from the Premier's office. They dare no speak out against this legislation. Our problem is with Bo Rae, a very nasty man, if you are a property owner. Premie Bob is unleashing his ideological rage upon the bloate capitalists, the landlord class that he seems to hate.

Ontario's property owners were the first victims of th socialist experiment in Ontario. First, punitive retroactiv rent control legislation destroyed property values and nov Bill 121, really a bureaucratic nightmare, is designed to plac the landlord at the mercy of Bob Rae's ideological jackboot.

Let me tell you about our association. We have 40 members. The majority of us are small landlords. We hav a few larger landlords also. We represent about 45,000 unit in the city. The association's bank balance is less than $4,00 Many of our members are first-generation Canadians. The are cautious people. Some of them come from socialist coun tries. These people are particularly obsessed with security That is why they invested in real estate. It was part of thei Canadian dream. It was their retirement.

Unlike you people, we do not believe that Bob Rae ca take care of us or that the state will take care of us, so w worked a little harder, saved a little more and invested i Ontario. But now the socialist hordes that our member fled in Europe seem to have followed to Ontario and, fo the second time in some of their lives, their properties ar being confiscated.

Let me repeat, our problem is not with our residents our problem is with an ideological Bob Rae. In Ontario' time of need, this province needs leadership, not high scho socialist ideology. A leader's job is to inspire and insti confidence in those he leads. A leader must accept respon sibility. The buck stops on the leader's desk.

The boy Premier of this province does not seem t want to accept responsibility. Ontario's problems are neve his fault. He blames the recession, the federal governmen and the Bank of Canada. He will even blame the builder for the housing shortage. They are not building. The bo Premier seems to blame everyone but himself. In Ontario' time of need we require leadership, not finger-pointing After almost one year it has become quite clear that Bo Rae is not a leader. He is merely a servant to ideology.

Let's talk about rent controls, the budget and housing The Ontario deficit is $10 billion. That is excessively high Funding to the Ministry of Housing has increased by mor than 39% in the last year. At least $50 million will g

owards maintaining the slothful rent review bureaucracy nat you promised you would eliminate. That was the vhole idea of this new legislation, to make it simple. Bill 21 is not simple; it is a bureaucratic nightmare. In fact, I nink you people told a bold-faced lie when you said you vanted to create a simple rent review system. This is not a imple rent review system. You should all be taken behind ne woodshed and given the caning of your life.

The budget contains unprecedented funding for com-unal housing which will compete against the private sec-or, so as vacancy rates in this province go up, your plan is o build more communes. These communes are subsidized o the rate of $1,800 per month per unit. It just does not nake any sense. You are building communes to compete gainst private industry.

The $10 billion that I talked about is a huge amount, but nat is not the true deficit. The true deficit is in our spirit. Aore than bankrupting the provincial coffers, this govern-ent is bankrupting our spirit. Tens of thousands of men and vomen have faxed you, written to you, marched against ou and lost their jobs for you, but you do not seem to be stening. Oh, you go through the charade of public hear-gs like this, but in the end it is the rampant ideology that revails. How many Ontarians, how many businessmen, ow many workers have to go to the wall for Bob Rae?

All of you, even the people behind me, ask yourselves ne following questions: Will Ontario be a better place to ve in four years from now after the socialist experiment? low many factories have to leave the province? How nany owners have to lose their buildings and how many nants will have to see their buildings deteriorate?

You could say I am biased and I am not one of your pecial-interest groups. I am not a member of a union. I am ot a tenant and, unlike you, I believe this province is already minently fair. Ontario has been governed by Conservatives nd Liberals in the past and the truly needy of this prov-nce are probably taken care of better than anyone else in nis hemisphere. This government does not have a monopoly n fairness, benevolence, social conscience or the environ-ent. To think that you alone represent the needy in society sophomoric and, quite frankly, self-serving.

But it is not your compassion to the needy that I question; is your competence. Let's look at what others are saying. et me give you three examples. I am not making this up. irst, European investors who invested in Ontario real es-te were outraged by this government's attack on their usinesses. They are now channelling their funds to other rovinces and some American states. They now consider ntario in the same investment category as the Third World. ongratulations, Premier Rae. Is this your vision of Ontario?

Second, "Quebec Replaces Ontario as US Investor's hoice" is the headline from the Financial Post. A growing umber of US investors are betting that Quebec separatism less of a worry than Ontario socialism. Merrill Lynch of ew York said, "Investors who would normally have looked Ontario are now looking to Quebec." Congratulations, Ir Boy Premier. It seems American investors would rather ust their money with a government that is trying to harpoon onfederation than with the socialist Bob Rae govern-ent. You should hang your head in shame.

Third, your own socialist comrades are avoiding you like the plague. Poor NDP hopeful Mike Harcourt in British Columbia is plagued by the NDP disaster in Ontario. Harcourt has stated, "Bob Rae was not ready to govern." That is a nice way of saying not fit to govern. Harcourt said he does not believe in rent controls. The real solution is to build more housing. Listen to your socialist brethren. The real solution is to build more housing. Why can the socialists in British Columbia see the folly of rent controls when the socialists in Ontario are enamoured and blinded by it? Romanow and Blakeney in Saskatchewan do not subscribe to deficit spending. Audrey McLaughlin has taken Bob Rae off her Christmas card list and is distancing herself from the socialist buffoons in Ontario.

1020

This regime has a simplistic vision in many matters. The NDP sees all landlords as villains and all tenants as oppressed. Such a simplistic vision of Ontario's housing industry is a recipe for disaster. In 1989, Bob Rae was asked, "How would you get the current private rental stock out of the hands of large owners and into the hands of non-profit?" That is a loaded question. Here is what the Premier said: "You make it less profitable for people to own it. I'd bring in a very rigid, tough system of rent review, simple. There'll be a huge squawk from the speculative community and you say to them, 'If you're unhappy we'll buy you out.'"

I just want to spend a minute looking at this statement. His first statement was, "You make it less profitable for people to own it"—mission accomplished. Conservatively, rental property values have decreased by 25%. Is this what Bob Rae means: "I want to work with you; I'll help you be less profitable"?

"I'd bring in a very rigid, tough system of rent review"—that is almost done. After sham committee hearings, Bill 121 was introduced and I have said this before. Shame on you, Mrs Harrington; shame on you, Mr Abel, and shame on you, Mr Duignan. You sat here as dozens of landlords presented real-life financial dilemmas to you but you lacked the political courage to stand up to Bob Rae's ideological jackboot. After hearing real-life financial dilemmas, you cowered to Bob Rae's ideology. You are just sheep following an ideological leader; you are not leaders.

Bob Rae said, "There's going to be a huge squawk from the speculative community and you say to them, 'If you're unhappy we'll buy you out.'" Well, Bob Rae, many of your so-called speculators were foreign investors and you were wrong. They are not squawking; they are just leaving Ontario and investing elsewhere. They have left very quietly.

In a recent article in the Financial Post, Bob Rae said, "Wealth creation is crucial. We can't take it for granted," and, "We have to encourage markets to work and to create profits." Are retroactive rent controls encouraging markets to work? Is this the idea you have of creating profits? Well, the boy Premier seems confused. First he wanted to make it less profitable and now in the Financial Post he is saying he is trying to create a profit. Does this leader inspire confidence? No.

There are many problems with Bill 121, but I do not believe you are willing to listen to me. Even if you did,

you do not have the political will to stand up to Bob Rae's ideology. Your job is to execute the Premier's façade and just go through the motions. You are not allowed to think.

Mr Chairman, the opposition has something to do before this bill becomes law. Show Ontarians that your political—

Ms Harrington: On a point of order, Mr Chairman: I think everyone in this committee agrees that no matter what side of this table we are on, we are here for a purpose and that is to try to improve this legislation. People in the audience know that too. From some of the statements this presenter is making, I am wondering whether he is not questioning the integrity of this committee. I think you should listen very carefully and make a judgement.

Mr Lobo: May I finish, sir?

The Chair: I have to rule on the point of order first. Is there more discussion on the point of order?

Ms Harrington: We have tried to accommodate everyone who has come before this committee, but there are certain limits where the integrity of all parties who sit on this committee and the integrity of the Legislature—

The Chair: Okay, Mrs Harrington. On this same point of order, Mrs Poole and then Mr Tilson.

Ms Poole: Mr Chair, I would find it very difficult if you were to rule on whether this witness has challenged the integrity of this committee. We will only find out if this committee truly has a purpose when we see whether the government is willing to accept the needed amendments to this legislation.

Ms Harrington: I would certainly ask this witness if he has any amendments or anything to suggest or deal with this legislation. This is why we are here.

Mr Duignan: Are we dealing with the point of order?

Ms Harrington: Very much so.

The Chair: Order, please.

Mr Tilson: Most of us in this committee have sat through all the Bill 4 meetings and most of the Bill 121 hearings and this is the first time I have ever heard a member of a committee interrupt a member of the public of Ontario who has come to address us. There has been no reference by this individual, Mr Lobo, to criticize this committee or what this committee is doing. He has every right to attack and put forward his philosophy as to where this government is going with the housing policy of this province. I think Mrs Harrington is out of order herself in interrupting the train of thought of this individual who has come to speak to us, and I would rule her out of order.

[Applause]

The Chair: I am going to have to remind all our guests today that the committee is an extension of the Legislature and there are no demonstrations allowed in the Legislature and therefore there are no demonstrations allowed in the committees. We have this rule in place so that we can have orderly, properly run meetings so that everyone can participate as best they can. I ask all our guests today to help me in ensuring that this committee is well run.

I am running a list of speakers on Mrs Harrington's point of order. I have not ruled on the point of order. I want to know from the committee whether we are going to have a lengthy discussion. So far I have Mr Turnbull, Mr Brown, Mr Sola and I think I had Mr Mammoliti.

Mr Mammoliti: Yes.

The Chair: So that is four more. If the committee wishes to continue to discuss this point of order, that is fine, but we are eating into our time. Mr Turnbull.

Mr Turnbull: I will forgo it. My colleague Mr Tilson said very eloquently my feelings on the matter.

Mr Brown: Mr Chairman, in ruling I think you should consider the precedents of this place, the Legislature of Ontario. It is not our job to screen or decide before a presenter has actually said what he has to say whether it is appropriate or not. We are here as members of the Legislature to listen to the views of the people of Ontario, whether we may like them or not. That is not our job and it is certainly not our job to censor the people who come before this committee. I ask the Chairman, in the democratic tradition of this place, to rule against Mrs Harrington's point of order.

Mr Sola: Having sat on the Sunday shopping committee and the committee hearings on automobile insurance, I would like to inform you, Mr Chairman and Mrs Harrington, that the words the delegation is saying before this committee are mild compared to some of the words members of your party, specifically Ed Philip, Peter Kormos and some of the others, said in committee about the intentions of the government at the time and about the intentions of the committee, about the sham. Therefore, just going by precedent, Mr Chairman, I think you would have to rule against Mrs Harrington.

Mr Mammoliti: The only thing I want to say is that perhaps on some of the things Mr Lobo is borderline on breaking the law, so I think maybe you should—

Interjections.

Mr Mammoliti: —mention the rules, when we talk about immunity and all that, perhaps just so that the witness knows. I think it is important. That is the only comment I wish to make.

Mr Duignan: Mr Chairman, further to my colleague's point, the witness did refer to this committee as a sham, which is not the case. This is an extension of the Legislature. This committee is holding public hearings across this province to improve this legislation. While the intent of the legislation will not change, we are willing to listen to what the people of this province have to say to improve this legislation. But I certainly object to somebody who refers to a committee of the Legislature as a sham.

Ms Harrington: I do not have a copy of the presenter's remarks in front of me. As all of you know, we have been through this for several weeks now and then months before, last January, February and March, and we are certainly here to listen to what the presenters have to say. You know I will listen to people, but some of the statements this presenter has made, not just against the government, have cast aspersions on the role of this committee and, I feel, against you as Chairman as well. We are here to listen to

people and we have to have a certain amount of decorum and/or dignity in this setting.

1030

Mr Tilson: There is just one important point, Mr Chair: Surely it would be preposterous to invite someone to come to these hearings and all of a sudden tell him: "You cannot speak any more. Sit down, we have heard enough." How preposterous.

Ms Harrington: I asked Mr Chair to instruct the witness as to the proper way this committee functions.

Mr Tilson: You are telling him to shut up.

Mr Brown: Socialist censorship.

The Chair: Order, please.

Mr Abel: Just one quick comment: I think we should let Mr Lobo continue, because I think it shows his true character and the government-bashing that has gone on since the day we were elected and the damage it is going to do to this province.

Mr Turnbull: You are doing the damage to the province.

Mr Abel: If they would just back off and give the government a little bit of room, I am sure—

Mr Turnbull: Nonsense. Confiscation of people's property without any compensation—

Mr Duignan: Talk about nonsense—

The Chair: Members of the committee keep sticking their hands up. Okay, we are cutting it off. In my own experience, I have in fact sat in committees where witnesses have been very difficult on the government of the day and on the committees in general. I have sat in committees where, if not the integrity of the committee was questioned, at least the intent of the committee's work was questioned.

I believe the witnesses who come before us have the individual right to make up their own minds on how they see the committee work and function. Based on that, and also doublechecking with the clerk for historical precedence, I am ruling that your point of order is not in fact a point of order but it is a point of concern. It is also a point of concern for the Chairman.

As Chairperson of this committee, my job is to help this committee hear as many individuals and/or organizations as possible within the time frame allotted to us by the Legislature, and I have always tried to conduct the hearings of this committee with efficiency and as much dignity as possible. We are in a situation where there are three different political views put forward most of the time, and some of those views are deeply held and forcefully defended.

Witnesses come before us and they also have deeply held views, and it is true that sometimes witnesses make statements which could be considered borderline. What does a Chairperson do in those instances? The Chairperson could advise the person making the statements to be more careful. I thought of doing that. However, Mr Lobo has been before our committee before; he has followed the proceedings of this committee before; he has watched the proceedings of this committee on television; he knows how the committee operates. The first time Mr Lobo appeared before our committee, there was an outbreak of spontaneous demonstration and I called it to order, and I did so again today.

I would just remind all the committee members that everything you say in committee is recorded by Hansard and read by many more people than we actually imagine. The same goes for the comments made by the witnesses, and the people who read and/or see what is said will make up their own minds. But based on the strict interpretation of whether or not his comments are out of order, I would have to say that his comments are in fact in order. Very critical, maybe too critical of the committee and its work, but that will be up to the people and everyone else watching to decide.

This is an all-party committee of the Legislature, made up from the three parties of the Legislature. I am a member of the opposition, and my job is to be fair to everyone who sits before me, whether they are members or whether they are witnesses. Having said all of that, I note that Mr Lobo had three minutes left in his presentation. You could use that, sir, to finish your remarks, or you can take questions and answers.

Mr Lobo: I would like to use it to finish my presentation. I meant no disrespect to the Chair.

Mrs Harrington, I have tried and I have tried to talk to members of your government. I have met with Mr Abel, I have met with Mr Morrow, I have met with Richard Allen twice. I have been to every meeting, I have written letters. I have tried.

You are not listening. Okay. There is no point in me telling you what is wrong. You already know what is wrong, but you are ideologically bent on this idea. So I have tried, our association has tried, and really, we are at the 11th hour here.

What we worked for all our lives is being destroyed by a government that just does not happen to think what we do is right. We have tried—believe me, we have tried—and I have tried as hard as anyone in this province to convince you of why it is important that you maintain financial loss, why interest rate increases have to be passed on, why having maintenance police is not the way you get quality buildings for the tenants of this province. It is competition that creates quality.

Mrs Harrington, nothing I am saying is new to you; you are just not listening. What is the point of me sitting here and going through Bill 121 and saying, "This is wrong, this is wrong, this is wrong"? We have said that, and it has been said over and over again.

To say that this committee is a sham, I do not think I can retract that statement, because we went through Bill 4, and we tried very, very hard to convince you of what was wrong. None of it seemed to make a difference, so why would it make a difference now? In fact, part way during the Bill 4 committee hearings, the consultation paper came out—before the hearings were finished. This is a sham.

That completes my presentation, sir.

The Chair: We have time for one short question from each party.

Mr Tilson: Obviously Mr Lobo has raised a number of questions of the government, and we would refer that question to the government.

Ms Poole: We of the Liberal caucus will also give up our time so that the NDP can give some answers to Mr Lobo's very telling questions.

Ms Harrington: The question Mr Lobo had asked me was with regard to the system and whether it would be simpler. Because we have eliminated very many reasons for going to rent review, such as the financial loss clause, that system is definitely going to be simpler.

Mr Lobo: You said you would make the system simple and fair. If the system is going to be simple, then it is not going to be fair, and if the system is going to be fair, it is not going to be simple. You cannot make brain surgery simple; it is a complicated procedure. So is owning an apartment building.

Mr Abel: First, I would like to address the question that Mr Lobo directed to this committee: Do we think Ontario will be a better place to live in four years? My response to that is, you are damned right it will be, but it is going to take co-operation from the government and the business community, not the government-bashing that has been going on by the business community. I hope they realize they could create a polarization that this province has never experienced before.

Is the business community prepared to co-operate with the government and show the flexibility that the government has shown to the business community in Bill 4? Bill 4 is a good example. You say we did not listen. Believe me, sir, we listened, and there is proof of flexibility.

Mr Lobo: You make it less profitable for people to own a building. That is what Bob Rae said. How do we work with someone like that?

Mr Mammoliti: I know you are frustrated, sir, and I just want to say that I have taken in everything you have said. The only thing I did not like is the name-calling, in particular being called a sheep.

Ms Poole: Would you like to be a seal?

Mr Mammoliti: I never put up with that prior to the election, and I do not think I should after the election. The point I am trying to make, sir, is that we are here to listen. You said that we were not listening and that we were sheep. We are here to listen, sir. I assure you that all the hearings we had on Bill 4 and the ones up until now, we have soaked in. We are listening and we are communicating with the Premier as well as the minister. I think you are mistaken, and I thought I would just put that on the record.

The Chair: Ten seconds to respond.

Mr Lobo: I think Mr Mammoliti was just absolutely eloquent. There is nothing I can say.

The Chair: Mr Lobo, thank you for your presentation this morning.

1040

GEOFF GLASS

The Chair: The next presenter is Geoff Glass. Mr Glass, we will be following the same procedure, 15 minutes.

Mr Glass: My name is Geoff Glass, and I am a landlord. I feel very sad this morning. I feel sad for the government because of the recent Supreme Court decision regarding the Canada assistance plan. It means the government of Ontario will have fewer resources to fund much-needed social services. This landmark decision will affect the ability of the government to meet the needs of its citizens the way it would like to, one of these basic needs being housing. How can the government provide housing with money it does not have and without taxing an already overtaxed electorate? So I feel sad this morning for the government.

I feel sad for the tenants of Ontario, because if Bill 121 becomes law, they will be in a worse plight than they have ever been in before. Over the long term, the present rental housing stock will deteriorate and no new housing will be provided by the private sector, and because the cupboard is bare, the government will not be able to provide public housing. So I feel sad for the tenants of Ontario this morning.

And I feel sad for the landlords of Ontario, myself included, because this proposed Bill 121 is unfair and is making it difficult for us to operate and maintain our apartments.

I know this morning you are going to hear from many landlords who are distraught and frustrated about this proposed legislation, and we know all the different things because of the reduced annual guideline. The percentage of the building operating cost index inflation rate that will be allowed has been reduced from 66% under Bill 51 to 50% under the proposed Bill 121.

The capital expenditure increase limit: If a landlord must spend $100 in capital expenditures, he will only be able to recoup $60 of it in a rental increase. There are no allowances for interest rate changes. There is limited recovery for extraordinary operating cost increases.

The retroactive aspects of the current government's Bill 4 has not been corrected with regard to lost phase-ins, disallowed capital expenditures, disallowed economic and financial losses, and the list goes on and on. We all know them.

The list of individuals who now see the errors of Bill 11 is increasing every day. As recently as last Sunday's Toronto Star, a well-known pro-tenant columnist, Jeffrey Freedman, wrote this article and I think it should be read in part into the record. The heading of his column was, "Rent controls will hurt, not help, tenants."

"As the NDP attempts to ratify its controversial rent control act, they are discovering there are few people outside Housing minister Dave Cooke's office who approve of it.

"Two weeks ago, the head of the Ontario Chamber of Commerce, Linda Matthews, told the Star, 'Under the bill (121), the more you do (as a landlord), the more you get penalized.'

"She was alluding to the fact that landlords will be allowed to increase rents only 3% above the 5.4 guideline to cover repairs and operating costs. (This guideline would vary each year according to the rate of inflation.) It will be hard to recoup any investment you make over these strict limits.

"Matthews's concern is that the 3% will not cover the cost of the major repairs and renovations that landlords will have to make to our aging rental housing stock. In

fact, this legislation acts to discourage investment in repairs and maintenance.

"Jim McKinlay, a member of the Association for Furthering Ontario's Rental Development (AFFORD), says, 'The scary thing is, the banks are not going to be able to lend money to landlords for repairs and renovations.'

"The reason, he says, is that under the proposed legislation, landlords can't guarantee the banks they will be able to pass expenses on to tenants.

"'That's going to hurt landlords, but the ultimate person who suffers from that is going to be the decent tenant.'

"There are minimum standards landlords have to maintain, but it will be almost impossible to enforce these once the legislation is passed. I have already heard of numerous complaints from tenants who say their landlords have begun repair and maintenance slowdowns, and municipal and provincial authorities have done little, if anything, to enforce existing standards.

"McKinlay says he has seen the future and it doesn't look good: 'Landlords won't be able to do the work so the city will step in and add it to his tax bill; he won't be able to pay, so the government will take over the building for taxes.'

"As McKinlay notes, once government takes over these buildings the tax revenue from them is lost.

"The proposed rent control act is also going to have a devastating effect on landlord-tenant relations.

"'Regardless of how much griping tenants or landlords may do in a free market, the fact remains that nobody is able to force anyone into a transaction they don't want to make. But rent control is purely and simply an attempt by tenants to use the power of the government to set prices.'

"But wherever rent control has been tried it has been a failure and injurious to tenants and the rental housing stock."

I am part owner of four apartment buildings totalling 121 units. I have never illegally increased rents. I have never made luxury capital expenditures, by anyone's definition. I purchased these buildings in the late 1970s and early 1980s with the intention of keeping them for a long-term investment. I operate my apartments not only within the law but within the spirit of the law. Consequently, I have lists of people waiting for vacancies. I have discharged my responsibilities as a landlord in good faith and I am truly offended by the adversarial tone that Bill 121 creates between landlord, tenant and government. The whole philosophy of this legislation seems to be that tenants are good, landlords are bad and the system has to be protected against the landlord.

I feel that safe, affordable housing is as much a human right as health, education and minimum wage. These other basic human rights are guaranteed by government on behalf of all citizens and the responsibility for providing them is shared appropriately by all citizens through taxation. However, in the case of supplying affordable housing, the government has seen fit to seek its objective while placing the financial burden upon owners of private rental housing. I believe it can be easily demonstrated that not only are the proposals of Bill 121 harmful to owners of rental property but also that these policies will result in those with lowest incomes living in increasingly substandard housing. The government will find itself abandoned by the private sector and forced to invest in a housing system requiring massive infusions of already scarce tax dollars. No one will benefit, everyone will lose and it is all unnecessary. There is a better way.

Your committee, I feel, wants a long-term solution to solve a long-term problem. Why not work together to devise a rental housing system which will protect those who need protection and subsidize the rent of those who need subsidy? At a time when the government is faced with far more financial demands than it can possibly meet, why not maximize the resources of the private sector to address as much of the housing demand as possible, rather than unnecessarily driving the private sector out of housing? The solution, I believe, has to be a partnership between the landlord, the tenant and the government.

In my buildings, none of my tenants is spending more than 30% of his income on rent, and as I mentioned before, I have no problem renting these well-maintained units. I can show you numerous examples in my buildings where tenants are spending between 7% and 15% of their income on rent. These are not the people, I feel, who need protection.

Like all private owners of rental property, I must weigh the return on investment I can obtain from owning rental housing against the return available on guaranteed investment certificates and a multitude of other options. The market must afford me the opportunity to earn a fair return on investment for me to retain the incentive to manage real property, yet still offer reasonable and competitive rents. This is the best guarantee a tenant has that housing will be well maintained and affordable.

The proposed Bill 121 will distort this environment by discouraging the development of new units and making expenditures for maintenance a bad investment decision. I know you would agree that access to adequate food is at least as basic a right as access to housing. Does the government propose to implement a food price review board or intend to force grocers to justify every price increase? Of course not, because we all know that what keeps food quality up and prices down is the competition of the open market. For those who cannot afford food, the government has recognized the need to provide income support. Price controls on groceries would lead to poor quality, rigid pricing, supply problems and an expensive state bureaucracy that produces nothing. This is precisely what Bill 121 will do for housing. Artificial controls on accommodation are just as costly, inefficient and counterproductive as they would be for food.

If the NDP government follows through on not allowing rent increase due to financial loss, economic loss, and increase in mortgage interest rates, etc, I am afraid I and many others may have no other option but to withdraw from the rental investment market. Offering a carrot rather than a stick would be a far more effective and cost-efficient means of achieving the laudable goal of assuring an adequate supply of affordable housing.

1050

Possible solutions: Why not remove controls from the multiple-unit buildings where the owner makes available 20% of the units for rent supplement agreements with the local housing authority and set the rent cost of the units at

80% of the average rent cost of the remaining units? This approach would make immediately available a huge infusion of rent-geared-to-income units for allocation to those persons in greatest need. The units would be scattered throughout the community, thereby integrating lower-income people into different buildings and avoiding the ghettoization which has proven to be such a problem in the past when low-rental housing is highly concentrated. At the same time, such an approach would ensure the buildings are well maintained at the owner's expense and investors could return to the business of creating and upgrading rental units in an environment free of controls.

Such an approach holds major benefits for Ontario. It is estimated that high-rise apartment buildings in Ontario will need $10 billion in repairs over the next decade. I believe it is self-evident that the proposed rent control legislation of your government will force rental property owners to reduce or cancel altogether much of this necessary repair work, or even abandon the rental housing market. The possible result can be seen in places such as New York City.

In the New Democratic Party's document An Agenda for People it is proposed that 20,000 non-profit units will be built each year. With a maximum unit price of $110,000 per unit, that represents an investment of $2.2 billion each year. How does it make sense to spend billions of tax dollars to construct new units which will need annual rent subsidies, while simultaneously implementing a rent control strategy which will lead to a loss of privately constructed units and the deterioration of thousands of remaining units? How does it make sense and how can it be just and fair to expect private rental property owners to operate under legislation that does not even apply to non-profit housing corporations?

At the same time, both municipal and provincial governments could enter into joint ventures with private developers on government land similar to the recently announced 600-unit venture between the city of Toronto and a private developer. It is a win-win situation for everyone.

I am seeking a partnership between the government, the tenant and the landlord, a simpler system where scarce tax resources would be directed to helping those who need help, rather than continuing a watchdog system that forces private property owners to subsidize everyone in order to protect the minority who need help.

In a paper produced by the government entitled Earning the Trust of Ontario Citizens, I read the following statement: "This government wants to work with all sections of the community openly and honestly to build confidence in government. It encourages dialogue on all aspects of an issue so that a fair decision can be made. Whatever the issue, Ontarians must know that it is being dealt with fairly and truthfully."

As a citizen of Ontario, I am asking for nothing more than dialogue and a commitment to fairness. I hope you can treat rental property investors such as myself as deserving of the same respect and fairness you or a tenant would want to be accorded. If we are to successfully address fair rental housing issues, we will have to overcome the unflattering caricatures that landlords, politicians and tenants have created of each other. I believe it is in our collective interest to work together as partners, not adversaries, and I believe I have placed before you today some ideas for a common ground. I urge you to have the courage to turn away from the disastrous rent control legislation proposed and make a fresh start, to seek more effective innovative and cost-effective means to ensure that all Ontario's citizens can enjoy their basic right to safe, affordable rental housing.

Ms Poole: Thank you very much for your excellent presentation. I would like to ask you a question about your suggestion that controls be removed from multiple-unit buildings where the owner makes available 20% of the units for rent supplement agreements with the local housing authority. This obviously could fit in well with the larger buildings. What would you do with the smaller buildings? Would they be automatically exempt from rent control or would they be under rent control?

Mr Glass: When you say small buildings, say, six or something like that?

Ms Poole: Six units.

Mr Glass: Again, it is just a conceptual idea and you have to sit down and think of all the different things. Maybe there will be an exemption for six or under or something like that, I really do not know, but it would make sense that when you are looking at the smaller numbers you would have a disproportionate number in the 20%. I think the six or under is not a large number anyway. If you do it six or over, I do not see a problem with it. I have 23 units. Tomorrow, if it was done, I do not think there would be a problem. Again, It would be helping those people who need help and are not being helped.

Mr Tilson: Mr Glass, you obviously appear to be very informed as far as the housing industry is concerned in this area. My perception of what this government will do is that this bill will pass, probably with very little amendment. I would like to ask you a question with respect to the existing bureaucracy and the anticipated bureaucracy and whether you perceive that the bureaucracy created by Bill 51 has been improved or lessened rather by Bill 121.

Mr Glass: It has not. It is more complex. I have my other partner here; he is the one who does all the submissions before rent review and is more informed. He is frustrated in terms of making all the applications. I feel there is a simpler way. Controls do not work. We know privately they do not work; if we would all come out publicly and say, "Hey, they don't"—there has to be a better way.

Ms Harrington: You certainly have put forward your position quite clearly that you do not believe there should be any rent control, but you have also stated some other things on which I think we can agree. We believe rent control can work and that it is a consumer protection, like any other type of regulation or legislation we have in many other fields in our basic lives.

You talked also about having a long-term solution that will work, having a partnership between business, government and tenants. I would like to assure you that what we are looking at beyond rent control in the Ministry of Housing is the bigger picture, and some of these suggestions you

are putting forward are part of that or may fit into that bigger picture.

I would also like to tell you that 80% of the landlords in this province have not in the past gone to rent review in any one year. Many people can operate their buildings with a reasonable profit and that is the system we want. We do not necessarily think you have to come to rent review. What percentage do you feel is a fair profit?

Mr Glass: I do not know. We were talking on the way down. The way it looks now to the government is that it does not want the owners to make any profit. I guess I just look at it and say it is a lose-lose situation; it really is.

The Chair: Thank you for your presentation. The time has expired.

851 QUEENSTON ROAD TENANTS ASSOCIATION

The Chair: The next presenter is 851 Queenston Road Tenants Association. We ask you to identify yourselves for the record. We will be following the same procedure, 15 minutes, and you can reserve some time for questions and answers.

Mrs Somody: I am Patricia Somody. I reside at 851 Queenston Road in Stoney Creek. This has been my address for 18 years. With me is Betty Stein, a fellow tenant who also has 18 years at this address. It is now owned and managed by Megna Property Management. I am speaking in favour of rent controls on behalf of the tenants.

Bill 121 is certainly a step in the right direction. Three areas we would like to see addressed before the bill is sent back to the Legislature are maintenance, possessions or services and resale—flipping.

1. How can the dilemma be resolved in regard to continuous repetition of repairs and maintenance?

The maintenance agency is run by the owner, Mr Bruno Megna, who hires repair people with questionable skills and qualifications. This creates many additional visits to correct mistakes before the repair is completed or fixed, plus excessive costs; for example, pipes redone three times before being correctly done. Costs are no longer borne for expenses for work done; therefore things being repeated over the years should be reduced, or tenants should not be required to bear the costs.

There needs to be a greater enforcement of work repair orders, landlord penalties or rent rebates for tenants who have waited an unreasonable length of time to have their repairs completed properly. For example, plaster repairs: many just patched, redone numerous times to date, the whole building needs plaster work done; front door: hung three times before being properly done, pins and hinges installed upside down, etc.

This legislation does not put any requirement on municipal officials to enforce work orders or to issue them in the first place. In fact, it may have the opposite effect and lead to a decreased number of work orders being issued in an attempt by municipalities to counter what is perceived as tough legislation.

1100

2. Nothing stops a landlord from taking away services, and yet rents continue to go up. Until this point, there has not been enough protection for tenants. For example, our party room/tenants' lounge was closed. A tenant meeting was held May 22, 1989, with Mr Bruno Megna and Mr Fiori Manga, requesting the return of the party room. The owners promised that, yes, we would have it back. Today that is not so. The room is used for training superintendents of other buildings owned by Mr Megna, storing supplies, as a workshop, etc. Other take-aways which we pay for in our rent are: sauna room, freezer room, bicycle room, hobby room, one locker room—all these, yet the rents continue to climb, with reduced services.

The new legislation purports to consider the loss of services; however, how will they be translated into dollars and cents? The actual effect on the tenants' lifestyle cannot be given adequate compensation in money. As well, when bulk services such as cable are provided by the landlord, the landlord's rate is far below what the individual purchaser would pay. When these services are discontinued, the decrease in rent is based on the amount the landlord paid, not the higher amount the tenant will be forced to pay to continue receiving the same service. The tenant ends up with an increase in rent in real terms.

This legislation is supposed to offer tenants real rent control, yet, just like the previous legislation, it deals almost entirely with landlords, and tenants are inconsequential. This is most apparent in the areas in which smaller buildings are given special considerations. Owners of these buildings are given higher guideline increases and other benefits, but what about the tenants? Why should tenants be paying higher annual percentage increases simply because they live in small buildings? Has there been a study that indicates that tenants in small buildings are more able to afford higher increases? Is there any actual analysis of the number of smaller buildings that are owned by struggling retirees and those that are part of the portfolio of large corporations? This is an unjustifiable differentiation and is the result of direct pressure from landlord lobbies.

3. Another important fact that needs mentioning and should receive attention is the purchase and resale of buildings. We feel that when a purchase is made the owner should do his or her utmost to maintain the property to standard: repairs, cleanliness, etc. Also, a time limit of five years should be set before a resale occurs. In our case, the building was 18 years old in March 1991. The original owner held the building for six or seven years before selling in 1980. Since that time, we have had another eight owners and, now, our 22nd superintendent. This itself tells something. The point is that a real estate deal should not be allowed to close if outstanding work orders exist. They should be cleared up prior to closing the deal.

The original repairs that should have been done have received little or no attention, with some being duplicated, chiefly cosmetic, before resale. These same problems keep surfacing and are repeated with each owner. The building has truly deteriorated and the repairs to date and violations to be corrected are still not completed.

Work orders are being circumvented, because after the inspector has issued work orders, the landlord is correcting just enough to pass inspection or not fully completing the work, leaving units half done, for example, drywall that is

left bare and unpainted and plaster work that is patched just to make it look good.

Equipment has been replaced many times over: vacuum cleaners, 3; snowblower; riding lawnmower; mini barn for equipment and tools; picnic table; air-conditioner; floor scrubber, industrial size, and tools replaced three and four times. These are things that bring rents up terribly and the tenant pays the price. Even tiles for each floor in front of the elevators have been removed at time of sale. Allowances had been made for them. A $1,500 allowance was made twice for painting walls in the underground parking area. Painting of pillars was started, and that was the extent of the work.

We have been through rent review three or four times and are now in the process once again, fighting for a decent place to live after living in disrepair for years and yet having high increases. Any of the apartment units that are attractive and in good repair are because the tenant has repaired and completed them at his own expense.

We recommend a stricter law to stop flipping and to monitor buildings so that tenants have sound, clean, attractive apartments to live in at affordable prices.

Mr Morrow: That was a well-thought-out and well-presented brief. Thank you very much.

What a great part of the region you live in, by the way. I had to say it—it is my riding.

I have actually been in your building and have seen what you are saying. The situation you are in is appalling at the best of times. Can you basically tell us how often you have gone to your landlord and the response that you have received?

Mrs Stein: People have put in letters stating what is wrong with their apartment. We assume once we have put it in the superintendent's door that it gets to the landlord. They claim they have not received them or they are not filled out properly. There is generally some excuse why it has been put off.

Mr Morrow: A real communications problem at that point, then.

Mrs Stein: Right.

Ms Poole: You have made a number of very good points, including costs no longer borne and also your provision about not being allowed to close a real estate deal unless outstanding work orders are taken care of. I am not quite sure how that latter part could be worked out, but perhaps some minds in the ministry can take a look at that.

The question I wanted to ask you related to work orders and maintenance, which obviously have been a big problem in your building. You have pointed out quite correctly that if the law is too punitive you will actually have the reverse effect happen, where landlords will not begin work orders because the municipality will sympathize and say, "Well, it is not fair." Do you have any suggestions for dealing with work orders, other than the fact that the municipalities should be enforcing them more rigorously?

Mrs Somody: I feel that when work orders are issued, landlords should be given a limited time to get them completed and that officials in the municipality should come for a reinspection to make sure all work is completed and is as requested on the order.

Ms Poole: I think what you are really saying is that you would like a province-wide standard, so municipalities could not opt in and opt out of what they apply.

Mrs Somody: It is true. If there was one set of rulings and it applied to all, and if they were done properly and they passed inspection by the people—be it fire department, electrical work, health department—if they met the standard in all capacities, I think that would be very wise and a good policy.

Mr Tilson: I appreciate your informing us of perhaps rather intolerable situations that you are experiencing with maintenance and capital improvements. We are hearing that throughout the hearings.

At the same time, we are also hearing landlords coming to us saying time after time that because of Bill 4, because of Bill 121, it is financially impossible to make any further capital improvements, and it will be very difficult for them to even maintain the simplest of maintenance because of the financial restrictions that are put on them.

Can you offer any thoughts to this government that would encourage landlords to make capital improvements or encourage them to proceed with maintenance to their buildings?

1110

Mrs Somody: I think that when an order was issued, if all work was completed when it needed to be done, then the building would not become in such disrepair and the costs would be minimal. If you kept on top of the situation, then 10 years down the road it would not be in the condition that it is at the present time.

Mrs Stein and I moved in when the building was brand-new. It was lovely; it was like a palace. It was artistically decorated. Everything was fine. We had a superintendent who was out of this world. Every week, if he received a worksheet, he did it weekly. There was nothing—nothing—that deteriorated. It was clean, it was attractive, the landscaping was lovely, all of that.

With every person who has come in, it is, "Oh, well, that's all right." Buying a building in disrepair, they get an allowance off the price. So now they are buying a building in disrepair. They get X number of dollars. It is a tax shelter. They keep it three years; now it is time to get rid of it. They have had their tax allowance; now it is time to dump it. Then it is up for sale again. This is what has really happened in this instance.

The Chair: Very good. Thank you for your presentation today.

McQUESTEN LEGAL AND COMMUNITY SERVICES

The Chair: The next presenter is McQuesten Legal and Community Services. We would ask the presenters to identify themselves for Hansard. You have 15 minutes, and you can reserve some time for questions.

Ms Giroux: Good morning to all the members here this morning. My name is Denise Giroux. I have appeared before the committee before. I am lawyer with McQuesten Legal

and Community Services. With me is Andrea Horwath, our community development worker at McQuesten.

You have heard this morning, and I am sure throughout the time of your travels, and you will hear some more today, from landlords who are crying that their profits are being undercut right out from under them. You asked one particular one, "What kinds of profits are enough?" They cannot answer, because what they want are unlimited profits, a free market, a 19th-century liberalism in place that would allow them to set whatever rents might be tolerated in the market. Their proposal is to have you subsidize through the public Treasury the tenants who need it. This is them acting as the great defenders of taxpayers, when in fact their proposals are merely to funnel the Treasury into their pockets more directly.

You have heard from Mr Lobo, and you will hear from Mr Towler this afternoon, about how since the government was elected we are going, hand in hand, to hell in a handbasket. The obsessive and fanatical rhetoric of Mr Lobo is typical of some of the stuff you have heard. I am sure it is not only in Hamilton that you have faced this, but you have heard very little in the way of specific submissions from these people to help make this legislation workable.

You will hear from tenants—you have already heard from a few—about the injustices. They better than anybody know what it is like to be poor and paying more and more of their revenue towards their shelter costs. They can tell you, and they have told you, of all the legal activities that are going on out there that are not being addressed by this government any more than the previous government at this point. They can tell you of the sense of frustration and helplessness that they have experienced with the existing system, with the managers of the existing system and with the administration and its biased issuance of orders, its biased determinations. They have told you about the poor management and the flipping not only of the buildings and the owners but also of the managers and the superintendents, which does not lead to consistent care of their buildings.

I am here as a member of the community who works with tenants' groups primarily but who is very familiar with the system in a broader way, I think, than some of the particular tenants' groups, and I have some specific recommendations for you that I would like you to look at in the long run, if not today. I have presented you with a 17-page brief full of details which I hope the minister will look at. As I said, there are some specific suggestions for amendments to the bill which I think will help strengthen it, because despite the government's good faith and intentions to make a workable rent control system, there are too many sections in this bill that are identical to previous legislation I think that is not so much a fault with the principles or the government's intention, but with the drafting of the legislation. It is important that you look specifically at the wording and consider how these things will play themselves out in practice.

I would like to take you through just a couple of the specific sections. I am not, obviously, going to deal with all the material in the brief. On page 2, I have mentioned how the wording of many of the provisions is identical to previous legislation, and will not actually be met with any different administration unless the wording is changed to reflect the principles and goals you have said you intend to include in this legislation.

I would like to turn to page 3 and refer to some specific sections that relate to the prohibition on landlords from collecting illegal increases pending an order's issuance. When you apply as a landlord for an increase, let us say for the 8% or 8.4% maximum, in the past it could have been 30% or 40%. They would issue notices to tenants. They would make application and rent review services would tell landlords they were entitled to collect what they were asking for despite the clear terms of the act which said they should not collect that, but only the guideline portion of that amount, and anything else would only come once the order was issued. But rent review services actually told landlords to do otherwise, and there is a section, section 19 in this legislation, which repeats the wording of a section in the previous legislation. The same damned thing is going to happen and landlords will be collecting the 8.4% before we even know whether they are entitled to the 5.4%, let alone 8.4%.

That needs to be eliminated from the act unless you want to see that same kind of abuse by the administration and by the landlords. We also saw as an effect of that problem that tenants were paying too much, and then if the order actually only gave the landlord 20% as opposed to 30%, the landlord had collected this money and often did not return it voluntarily. It was left to the tenants to try to recoup their overpayments. Oftentimes they never did because they did not know they had done so and did not know how to go about it. Many of them simply are not used to acting upon and enforcing their rights under this legislation or any other legislation, so I urge you to remove section 19 from the act. It works at cross-purposes with sections 5, 6 and 11 and it is totally unnecessary. Without it, landlords will simply get what they are owed further to an order in due course.

On page 8 of my brief I refer to the application procedure for tenants to reduce their rents. These sections again are quite similar to the previous legislation's provisions and the equivalent provisions were rarely used by tenants and still more rarely used successfully. This section is a farce and does not do anything for tenants. It appears to be a remedy, one of those few things in the act to help tenants get what is fair. It will not work unless you expand it from an individual application process to a class action process to allow tenants' associations to take group action. They, better than anyone, can marshal the evidence for a hearing and present their case. It is a divide and conquer situation and individuals are not able to do it.

Besides that, the Landlord and Tenant Act already allows individuals to take abatement claims to court, and this procedure is much more efficient and much more timely than the rent review procedure. Why would I, as a lawyer, advise a tenant to pursue this method when an abatement claim in court could be dealt with within a month? Only if this can produce a class action right will it be useful and I urge you to consider that kind of change.

1120

Connected with the applications to reduce the rent is the new remedy provided by the bill, which states that tenants may apply for a reduction in their rent if the extraordinary operating costs are actually going down, but how the hell are they supposed to know that when they have no access to that information? It is a silly section, without providing access, as of right, to tenants and their associations to get that information. My suggestion to you is that the rent registry system be expanded to be more comprehensive. It should not only be the base rents and the maximum rents that are included in that registry system. It should also be any outstanding work orders on record in the registry system, and any other matter that affects that building should be on record with the registry system so that tenants can access that information.

Landlords should be made to file their annual operating costs for those four items which qualify as extraordinary operating costs: municipal taxes, water, hydro—I forget the other one offhand. It is not an onerous burden to have them file that, and only if they are required to file that will tenants be able to rely on this section. Otherwise, you might as well eliminate it. It appears as a balanced perspective to allow tenants a right or a remedy, when in practice it will not do anything of the kind unless you address that problem. I do not want to go into any more specific examples, but I do commend the paper to you and ask that you review it in your own time.

I have read Bill 121 within the context of the green paper the government has recently issued, supposedly for a comprehensive housing policy. I put the Rent Control Act, as proposed, within that context. What we have seen with the comprehensive housing framework paper is that it focuses on non-profit housing primarily, but it is clear to all of us in this room that non-profit housing will not be able to meet the need in the years to come. Even if we were to find a way of building thousands of houses in the next 10 years, we would still not be able to meet the need and this existing rental stock in the private market has to be addressed adequately.

The role for addressing that is the rent control system as far as I am concerned, and I think that is what the government is saying. So this legislation cannot be given short shrift and it is why I urge you to look specifically at the way these sections will play themselves out. That is the key point in time and place, where the effectiveness of this legislation will be recorded or registered.

I feel that to date what we have seen is that the government has not directed staff adequately as to how to implement its goals and objectives. The principles I have no quibbles with, but the actual practical elements that you are trying to include there definitely need review. I think the rent control legislation as it is will play a part in maintaining affordability, but it does not contribute significantly to the preservation of existing stock, as it is presently written, and there needs to be more done in order to preserve that existing stock.

For instance, you have exempted new buildings for five years from the rent control legislation. This was unnecessary because with new buildings, if they were being built, the landlords of those buildings already had the right to establish the first rents on those units and only afterwards did rent control specifically apply. This is a gift, in a way, given, and yet landlords always have an excuse for not building. They say that Bill 4 and rent control—I heard Mr Tilson say—stopped people from investing in their buildings, but what was their excuse 10 years ago and 12 years ago and eight years ago? I would like to know.

If these people would urge you to create a system without any rent controls or actually advocate for a reserve fund for new buildings, then they would be consistent, but they are not being consistent in their own ideology. You have an opportunity with new rental housing stock to create a system that will work better than the old system we keep trying to fix up in various ways. You should be looking at a capital reserve fund for new rental housing if you are not prepared to do it for existing rental housing. Otherwise, 20 years and 30 years, from now, you will have the same problems with your new rental housing as you have now with your existing rental housing.

That is all I wanted to say and I am prepared to take some questions, unless Andrea would like to make a comment.

Ms Horwath: No, you have already made them.

Ms Giroux: I would again commend the paper to you for some specific revisions of the legislation. I have put a lot of time and effort into it and I really do think we have some specific and helpful suggestions to make this legislation work.

The Chair: We have time for three very short questions.

Mr Tilson: I am sure the members of the committee appreciate your legal expertise and we will review your paper. I would like you to comment, if your paper does not already comment on it, on some remarks made by Roberta Jamieson, the Ombudsman, in written form to this committee where she dealt specifically with section 89, and that is the power to reconsider. Her concern is that the current legislation has independent board members. This bill places the responsibility of rent review with a segment of the public service and she expressed a concern with that. Do you share that concern?

Ms Giroux: I am not sure I understand your question exactly.

Mr Tilson: With the existing Ministry of Housing legislation for rent review, you go before independent individuals, independent people. In this legislation, the rent review officer is part of a segment of the public service. In other words, there is a connection to the political arm of the government.

Ms Giroux: Do I have any concerns with that?

Mr Tilson: I think her concern was whether this was right, whether or not these decisions should be made by independent people.

Ms Giroux: I do not think the decisions could get much worse than those independent people made, so I really am not that concerned about it, no.

Ms Harrington: Thank you very much for your brief. I certainly will make sure that staff have a look at it. In fact, they are here today and I am sure they are already looking at it. You made some very good points, certainly

on the importance of the private rental market. We really do know that and we have to work with landlords and make sure they do have a fair profit.

Also—I think you were getting to that point—there is the importance of empowering and enabling tenants to deal with their lives and their situations. The question I wanted to ask you is on the costs-no-longer-borne aspect. I think you were getting into that at one point. We had a suggestion before this committee that the rental charges be separated into, first, accommodation, second, taxes, and third, temporary charges, so that tenants and landlords and everyone knew what the costs no longer borne were. Do you feel this is too complex or would you suggest going in that direction?

Ms Giroux: I think it is a good suggestion. I do not think it would be too complex, providing the system clearly kept records of those figures at the rent registry system. If they tried to explain repeatedly in their orders how those things break down, I think it could lead to a lot of confusion. As long as it was clear what the basic legal obligation was and the opportunity for revisiting that basic obligation because of costs no longer borne is provided in the legislation, I think that would be a good suggestion.

The Chair: Time has expired for this presentation.

Ms Poole: Mr Chair, is our caucus not getting an opportunity?

The Chair: I am sorry. I did not mean to overlook the Liberal caucus. I was looking at the clock.

Ms Poole: You had better not, Mr Chair, or we will expel you.

Thank you very much for your presentation. We always find it particularly helpful when witnesses point out specific sections of the act and make recommendations, so we will look forward to going through your brief in detail.

My question is about the right of appeal. I have looked through your brief and I am not sure I see something specifically on that. There is a very limited right of appeal under this legislation, basically only on a matter of law. Matters of fact cannot be appealed and it is very limited. In your opinion, is this going to be to the benefit of the parties concerned, tenants or landlords, if there is an error made during the administrative review or the hearing and it cannot be remedied at a later date?

Mrs Giroux: For the purposes of hearings where there are actually board members present and hopefully a record being kept—I think that is an important element which should be made clear—I do not have any major concerns about appeals being limited to questions of law, but I have some very serious concerns about the administrative review which continues under this legislation. The Statutory Powers Procedure Act continues not to apply, which means that the administrators can do what they have always done: not give reasons for their findings, not refer to legal provisions they rely on. They can just arbitrarily choose what they want to do. How do you appeal a decision like that based on a question of law when you have no damned idea what law they are relying on?

I think it is important that they include reasons in their written orders, even at the administrative review level if that is going to remain with the system, so that the appeal can be properly brought.

1130

METROPOLITAN HAMILTON REAL ESTATE BOARD

The Chair: The next presenter is the Metropolitan Hamilton Real Estate Board.

Ms Dowling: Rent review was originally imposed by the federal government as a temporary measure in 1975 to help fight inflation. Ottawa lifted federal control in 1977. It was mismanaged from the start and has a cost of $40 million for bureaucracy to handle the case load. Rent review has definitely outlived its usefulness.

Through Bill 121, rent review has become rent control and we have gone from bad to worse. Free enterprise is being legislated to death and Bill 121 is another nail in the coffin for free enterprise.

The legislation of Bill 121 kills investors' interest—you have heard that before, today—in the private rental market. The term "Don't buy in Ontario" is the message being sent, which leaves even more of a financial burden for public housing on the province's empty coffers.

The construction of rental units has and will cease as builders do not and will not invest in rental housing because they cannot get a large enough return on their investment. We heard today: What return do you want? A reasonable return on investment. What is reasonable? Let's sit down and talk.

A looming shortage of rental accommodations has been masked by the deep provincial recession. It will choke the supply of affordable housing and the government cannot provide a viable solution because of the provincial debt.

Over the last few years average rent has fallen way behind the average mortgage cost, excluding property taxes and other expenses. If this continues, landlords will and are and do go bankrupt and default on their mortgages as they cannot totally recoup their losses.

The government has basically killed the apartment building industry. The five-year exemption on new buildings is not practical as new buildings usually do not require major repairs. It is estimated that Ontario's high-rise apartment buildings, many 25 to 30 years old, will need at least $10 billion worth of repair work over the next decade.

Bankers are very cautious right now and they will continue to be cautious about lending landlords money when the landlords' ability to generate a reasonable profit is in question. If banks refuse the financing needed, we are all in trouble. Landlords will not have the money they need to keep their buildings running or making the necessary repairs. Tenants will or have already begun to notice the decreased maintenance, as we have heard today, and the gradual deterioration of their buildings.

Preventive repairs will no longer take place, if done at all, and will only be done when absolutely necessary. Recent purchasers will be forced to divest themselves of their holdings—and they have and they are—but to whom? Who is going to buy them? The province? Will there be more sellers than buyers? The conditions of buildings will have a significant impact on the purchase price as landlords will

not invest in improvements. Good conditions—fair price; needs work—less desirable.

The market value of rental buildings could drop by a minimum of 20% to 25%, which will be especially harmful to the common small people, the investors. Is it the government's goal to put all private landlords out of business? Do you want to regulate rent so strictly that the buildings will fall into disrepair? This, of course, will reduce property value and then you, the government, can bail the landlords out and buy all their properties at a greatly reduced rate. Is the government looking for a totally provincially run housing system?

If you are, let me say that when this happens it will be a sad day for Ontario. We are already facing a deficit in our budget. Bill 121 is supposed to provide Ontario tenants with the best protection in Canada, but if the government lifts its head and looks outside the Toronto area, you may realize we do not need as much protection and government control as you think we do. The Hamilton area has numerous landlords who own one or two small investment properties—we have heard them here today—as retirement, security or secondary income. They are not the big players, but they are going to be put out of business by the big players' rules.

Rent controls stagnate the entire housing process because people will not move from their current apartments and only higher-priced units will be available. This will lead to more illegal apartments and tenants doubling up in rental units. Anyone who would be interested in going into a business that is totally ruled by government, a government that makes all the rules and then changes them overnight—why cannot the government admit when it has made a mistake, cut its losses and move on to a practical solution?

Myself and others who are presenting today are not saying anything radical or new. We are just stating that we do not agree with Bill 121, and the last time I checked, Canada was a democratic society. It has been proven time and again that rent controls do not work. You succeed in creating city slums which lead to other social programs. We can look to New York, the war zone, for that. We are here today to ask the government to get out of the housing business and let the market cycles take their normal course. It will all balance out.

I leave you with the following recommendations from the Metropolitan Hamilton Real Estate Board: that the government let the market set the price and gradually remove government regulations and replace them with rent subsidies for needy tenants, and that governments spend less time disrupting the system and take more time to close loopholes in the system that allow those who are well able to pay a fair market price for rental accommodations to be subsidized to the exclusion of those who really need it, the low-income tenants.

The Chair: Thank you for your presentation. There are about two minutes per party for questions.

Mr Brown: Your being here is fortunate just for some questions of fact. In the Hamilton area, how has the increase in the price of a house, for example, compared to the increase of the price of investment residential units over the last 10 years. Have the residential units kept pace with the housing market in general in terms of price?

Ms Dowling: Right now Hamilton is in a very difficult economic crisis due to the Red Hill Creek Expressway dying and industry moving out. When we are looking at housing units, we are also looking at apartment buildings that are not selling as well. Housing has decreased 20% to 30% in Hamilton. Recovery: We are waiting the same as you guys. Has it increased? You are looking at the number of units. I would say you are probably looking at a decrease as well. It fluctuates the same as the housing market. They are two separate entities and they have to be dealt with as two separate entities.

Mr Brown: I know this is an economically difficult time in this area as it is throughout the province, but perhaps in this area it is somewhat worse than some other areas. You do not have any statistics of what the average house would have sold for 10 years ago versus now, or apartment building 10 years ago versus now?

Ms Dowling: I am sorry. I do not have it off the top of my head, but I will certainly get that information to you.

Mr Brown: I would appreciate that.

Ms Dowling: The Ontario Real Estate Association has sent in a brief dealing with rent controls and Bill 121 to this committee.

1140

Mr Turnbull: Ms Dowling, you have stated that there is a 20% to 25% reduction in the value of apartment buildings, but you have also said that it was a 20% to 30% reduction in the value of housing. Do you attribute the two reductions, which are about in the same magnitude, to the same economic circumstances, or is it a different situation with respect to rental apartment buildings?

Ms Dowling: It is a different situation with rental apartment buildings. We are dealing with new housing, and a lot of our statistics have new housing and older housing combined. I can be put to task on this but, off the top of my head, I do not know of any new apartment building that has not been a condominium-owned apartment building. There has not been a new rental apartment building in our area. When you are looking at that, we are dealing with something that has already been on the market, that has decreased substantially, and therefore there is no uplifting. The decrease of 20% to 30%, if we are just looking at the existing housing market, the older houses, would probably be substantially less if there was not new housing to bring up that price.

Mr Turnbull: It seems to me that in view of the fact that the capital value of these buildings has dropped, which eliminates any of that aspect of profit, it would seem reasonable that you should be able to make a profit out of your building if you own one.

Ms Dowling: You have a lot of factors involved here. You have the cost of your superintendents. You have increases of taxes. Hamilton alone has water meters that now have to be installed on all rental accommodation. It does not take it into consideration under a signed lease. So we have a lot of factors affecting the rental market that are

totally out of the control of the 5.4% that we are looking at, and the additional 3% for any increases. It is wonderful to look at this bill and think this is wonderful, but this is not Hollywood. The reality is that there are a lot of buildings in a lot of decrepit states of repair. They are looking at not even getting a reasonable return on their dollar. I asked Richard Allen, "If you had $100,000 today, Richard, would you go and buy an apartment building or would you buy GICs?" He did not answer me, and that has to tell you something.

Mr Abel: Ms Dowling, I would like to thank you for taking the time to come out today and express your concerns to the committee. In your presentation you indicated to this committee that you are under the impression that rent controls may create slums. Is that correct?

Ms Dowling: That is correct, sir.

Mr Abel: You made reference to the slums in New York.

Ms Dowling: That is correct, sir.

Mr Abel: How would you explain the slums in Detroit, where they have no rent controls at all?

Ms Dowling: Have you noticed the tenants taking over these apartment buildings and fixing them up? Have you noticed how they have taken control and done something?

Mr Abel: I am sorry, Ms Dowling, that was not my question.

Ms Dowling: Okay, I am sorry.

Mr Abel: How do you explain Detroit's slums where there is no rent control at all?

Ms Dowling: Detroit slums—I cannot explain it because you are taking a hypothesis. I am dealing with control upon control, and you are saying that there are no controls.

Mr Abel: I am saying, Mrs Dowling, that New York state does have rent controls, and you have made reference to the slums because of the rent controls.

Ms Dowling: That is right, because I travelled through them last summer.

Mr Abel: But Detroit has no rent controls at all, yet the slums are there. How can you explain that?

Ms Dowling: Sir, the slums are all over. How do I explain that? That is a social issue. Do you want me to explain that?

Mr Abel: What you are saying is that it is not necessarily rent controls that create slums.

Ms Dowling: I am saying that you are looking at deteriorating buildings, and there is no money in the coffers to fix these buildings. There is no reasonable profit. There is no money to fix them up because there is a control on the amount of money it is going to require to fix these buildings up under rent controls. How do you explain that?

Mr Abel: That still did not answer my question, but thank you anyway, Ms Dowling.

Mr Mammoliti: Yes, she did. She said she does not know.

Ms Dowling: That is correct. I am not a socialistic person here.

Mr Mammoliti: Yet you used the argument anyway.

The Chair: Mr Mammoliti, do you have a question?

Ms Dowling: That is the fourth question, by the way.

The Chair: Please, we have a minute.

Mr Mammoliti: You brought up the argument of New York and the slums, and you brought up the argument about rent controls causing those slums, but yet when the question is brought and asked of you about Detroit, you cannot answer it.

Ms Dowling: George, do you have an answer for that?

Mr Mammoliti: The answer I have for that is that the landlords have not been taking care of them. That is the answer I have. I think it is their responsibility.

Ms Dowling: They do too, because it is an investment. If they do not take care of it, they are not going to recoup any of the so-called profit.

Mr Mammoliti: How would you explain all the work orders and all the maintenance that has been neglected in Toronto over the past few years? If what you say is true, then they would care about fixing up their apartments, and they have not been.

Ms Dowling: George, work orders come through. It is done by the city. The city goes into these places and has work orders put on them. A property cannot change hands—

Mr Mammoliti: What about 851 Queenston?

Ms Dowling: Excuse me, George.

Mr Mammoliti: What about 851 Queenston?

Ms Dowling: A property cannot change hands unless—

Mr Mammoliti: What about 851 Queenston? That is something you can relate to.

Ms Dowling: Excuse me, George, I am talking. Please have the courtesy to be quiet. A property cannot change hands unless those work orders are totally lifted. Now, whatever has happened, I do not know. We have to look into that.

Mr Mammoliti: You do not know.

Ms Dowling: I cannot tell you what happens to every single apartment building. I can only tell you that outstanding work orders must be—

Mr Mammoliti: Still exist.

The Chair: We have used up all our time. Mrs Dowling, thank you for coming before the committee.

HAMILTON MOUNTAIN VILLAGE RESIDENTS SOCIETY

The Chair: The next presenter is St Elizabeth Village. Sir, we will be following the same procedure of 15 minutes. You can reserve some time for questions. We would like you to identify yourself for the record, please.

Dr Smith: My name is Robert Smith and I am representing the Hamilton Mountain Village Residents Society Inc. This is a society of residents in St Elizabeth Village on the mountain.

We are somewhat disgusted with the situation in the village because we have absolutely no representation of our group with the management. This has been the situation for quite a number of years and we feel this is an opportunity so that this situation may be changed and that the passage of this new bill would include a directive that our society,

our group, our association, would be able to communicate with the management of St Elizabeth Village. This has not been possible for years, since the inception of the group.

Actually the group came into existence on the advice of legal aid, which said, "Have you an association?" We proceeded to do that and we are now an incorporated group. Nevertheless, we are not permitted to communicate as a group with management in the village. They absolutely refuse to do that. This handicaps us because we would like to have good dialogue with management. We believe it would obviate, eliminate probably, a lot of difficulties. We are hoping this new act will incorporate some directive to groups. I do not know if there are others. We believe the situation in St Elizabeth Village is unique in Ontario. We have not been able to find any other situations similar to our own.

We have objections to some of the clauses in the present Residential Rent Regulation Act. This act, except sections 3 and 6, does not apply to a rental unit situated in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis. The Hamilton Mountain Village Residents Society objects to this provision from two standpoints. As we understand it, the purpose of rent control is to ensure that the needs of the landlord and the tenant have been met to the degree that this is possible. In this regard, we see no difference between the circumstances regarding the needs of a businessman landlord or religious institution landlord. Both invest money and require a reasonable rate of return for whatever purpose they require. There would be some logic if there was subsidization of the rent. However, the act makes no reference to such circumstances.

1150

In the case of St Elizabeth Village there is no subsidization in that the tenant prepays 21 years' basic rent at the onset of his tenancy, and then that is supplemented by a monthly common area maintenance, known as CAM, a fee to cover all operational expenses thereafter. Under the terms of such a rental contract, it is difficult to understand why the landlord should be allowed to raise the maintenance fee portion of the rent beyond the guidelines of any other landlord.

It is submitted that the St Elizabeth Home Society is totally unique and different from a religious institution as contemplated by the rent regulation act. St Elizabeth Home Society was, over a period of many years, in transition from a small hands-on organization to a major real estate development corporation.

A registered charity return submitted by the St Elizabeth Home Society in 1986 declared almost $40 million in assets. The society has built some 450 homes with serviced land from up to approximately 620. A site plan for a further 600 homes exists. Additional land holdings are also undergoing zoning changes for a major town house development and seniors' apartments. From the foregoing, we submit that a development of such magnitude should be subject to the provisions of the rent regulation act.

The main objection of the residents society is the lack of representation. We have been trying for approximately five years, through various media, to become recognized by the home society which is the governing body of St Elizabeth Village. This lack of representation is an irritant. Most of our members are elderly, some quite elderly, and have no protection from the dictates of management. We are hoping the new act will indicate to management that it must recognize and co-operate with the members of the village association. I think, as I have already said, we are unique in that we are not allowed any say-so.

With regard to the religious institution under which the management, the home society, seeks refuge—that might be a strong term, but I think it is very descriptive—it says that the definition and condition set for an institution to be classified as religious is a rental unit located in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis. As I already said, 10 years ago, when they started out, it was apparently a very, I would not say religious but charitable organization, but as times have gone on there has been no charity shown, nor very much religion.

We have made application to the various government groups, and the big drawback is that there is nowhere any dictionary, case law or judicial interpretation of the words "religious institution." We in our group hope the new amendments to the present act will clarify this so that there will be no ambiguity, both for the landlord and the tenants.

We have absolutely no say-so in the administration of our complex there, no check on the community projects or costs. This is most important to all tenants.

Perhaps we will say a bit about so-called religious institutions in this. We find, and it has become very marked in the last few years, that there is no religious institution that it can be classified as, judicially or otherwise. As I have already said, we have done our best through various agencies to try and change the situation, but without any hope or any good results. Now this new committee, your committee, probably, if you will, can amend the act so that we will have some sort of say in our own neighbourhood, so that we will be able to sort of govern our own lives.

As we are all seniors, very much so in many cases, we have no objection to being sheltered to a degree, but to be told exactly what we do and when we do it and how we do it rather disturbs us. We hope this committee can change that. You are probably our last hope, because we have exhausted quite a number of avenues. We hope you will do what can be done, particularly to define what a religious institution is, so that we will know what part of the rent regulation act we come under.

1200

The Chair: Mr Smith, you have about 60 seconds left for your presentation. You can use it up finishing your own remarks or you can take a couple of short questions.

Dr Smith: Good. Any questions?

Ms Harrington: I would certainly like to commend you for coming forward and making quite a substantial case for the regulation of your institution and raising some questions. I would also like to thank you for forming a tenant association and having a dialogue with management. That is very important.

The government has not taken a position yet with regard to regulation of these rest and retirement type homes.

The Lightman report will be coming forward in October and at that point we will be beginning the discussion on it. Very soon we will be dealing with it.

Dr Smith: Very glad to hear that.

Mr Sola: You are asking for representation in governing your village, I guess, St Elizabeth Village. You say that without representation you have no protection from the dictates of management. What kind of protection are you looking for? Protection from unreasonable rent increases or maybe imposition of religious dogma that is not to your liking? I would like a little bit more specific detail on that, please.

Dr Smith: Nothing about religious dogma. We have all religions there. It is run by a famous or an infamous Sister Elizabeth. It still is, even though a ruling was made that she was to vacate the position of head of the group. We do not object to that, as it is fairly ecumenical. But the rental—the common area maintenance—increases steadily, usually just barely within the allowed lines. We cannot do too much about that, but we would like to know what is happening to all the moneys.

The Chair: That is about as long an answer as we can allow to that question.

Mr Tilson: The only comment I have on your remarks, Mr Smith, is that even if your wish is granted, this legislation still creates an adversarial system. It pits landlord against tenant.

Dr Smith: Exactly.

Mr Tilson: Even if your wish is granted, agreements between tenants and landlords are never going to exist with this legislation, and our party will be pursuing an effort to encourage that type of co-operation.

Dr Smith: We will be very grateful for that.

JOHN TOWLER

The Chair: John Towler is our next presenter. We will be following the same procedure, 15 minutes, and you can withhold some time if you wish.

Mr Towler: My name is John Towler. I am a landlord of a sixplex in Burlington. What I will say to you today I am repeating from my last six letters to the Honourable David Cooke, to which I never even had the courtesy of one reply. I assume those letters went into a landlord garbage basket.

There must be a mechanism whereby landlords recover financing costs and where rents reflect the value of the building. Financing is the largest cost in running an apartment building. To suggest it is not valid for recovery is irresponsible, naïve and a recipe for bankruptcy. Because it is the largest cost, it must be addressed in a much more sincere and responsible manner. Your green paper does not give one valid reason for not allowing recovery of this cost. You do say it will add to existing rents. Yes, it will if rents do not reflect the value of the building. It is like saying that if we do not eat, we can reduce our food bill. Obviously there is more to the equation than not eating. Likewise, the landlord must be part of the equation. I do not think he is.

One reason is so outrageous: It says the system of rent control will be simplified if recovery is not allowed. That is what it says. Is the landlord part of the equation? Obviously not. This casual, one-sided attitude is of major concern. I would like to point out that every business recovers financing costs or it goes broke. How you expect the landlord to operate is beyond my wildest dreams.

Your legislation clearly says—I want to say this very slowly; this is exactly what it is saying—that you will make an easy target from a selected group of innocent landlords, those who have been trapped with low rents. Rather than help them, you are saying: "We have trapped you. We are going to give you the gears. You are not going to get out of that situation. You are trapped." Their financial ruin is not a consideration. You will force us to provide below-cost rents. Shame on you. Bill 4 has pushed me to the limit. You have tripped us. We are down, and now you start kicking.

The effect of not allowing financial loss is to say that rents will never reflect an increase in the value of the building. Therefore the value of the building cannot go up. May I explain—it is very basic economics—that the value of any business is relative to its potential to earn a profit. If rents cannot increase to reflect the value of the building, then it is clear that the value of the building cannot increase. They go hand in hand. In fact, it will not even increase at the rate of inflation. This means its real value decreases as time goes on. Your legislation clearly says this is its intention, to devalue our real estate. It very clearly says this. It is very simplistic to provide low-cost rents when you exclude the landlord from the equation and decrease the real estate value, and that is what you are doing.

Is it workable? Is it fair? Is the landlord part of the equation? Triple no. I suggest you are forgetting something very basic here. If the building does not represent the costs of land, labour, bricks and mortar, then it defies all business sense to invest in that environment, whether for renovations, building new or buying existing stock. It is anti-business, anti-landlord and a recipe for disaster for both tenants and landlords.

I urge this delegation to study pages 20 and 21 of Issues and Options and have the courage to make the proper adjustments. Should this delegation choose to ignore these facts and this reality and this unfairness, I question who it serves. I think we have heard some answers today, and the one that sticks in my mind most is that it does not serve the person it is intended to serve.

I accuse this government of trying to drive a wedge between tenant and landlord by making outrageous statements whereby every landlord is guilty of putting in gold-plated lobbies and buildings are being financed at tenants' expense. It is not true. Let's talk about the 90%, the others, who do not have this problem. I urge you to stop this rhetoric and damage to the industry and instead be realistic, supportive and encourage good landlord-tenant relations. I personally have found tenants reasonable, and when informed most do not expect below-cost rents at the expense of the landlord.

1210

I would like to talk briefly about my own situation. I felt I had a good, ethical business plan. I am not a crook. In 1988, after extensive research, I concluded mortgaging my

house was a sound business plan. My investment and its desirable location certainly could not be replaced for its purchase price. The previous owner of more than 25 years avoided rent control; hence, the rents were extremely low in relation to the value of the building. Today that same landlord has had his planned retirement severely devalued. Years of work for nothing. He is lucky if he can sell his building. Shame on you.

By using a phase-in, I had planned to be able to break even in five to seven years and still provide rental units at below-market, fair rents. I would provide my services as bookkeeper, gardener, maintenance, superintendent, etc, free of charge. In fact, I spend all my spare time in this regard. This plan would assist with my children's education needs and give me some security at retirement—not outrageous expectations, and very fair with tenants. I used TVOntario's series entitled "Successful Landlord" as a guideline, which by the way is running again, and I warn that it does not reflect today's environment.

Bill 4 shattered my plans. Your rent control legislation will financially ruin me. Your legislation will force my building to lose money for ever. And why? In the name of providing low-cost rents that do not reflect the value of the building. And for whom? For tenants who have had the courage and the moral conviction to say that you are wrong and this is not fair. That is exactly what my tenants said and you can refer to a Hamilton Spectator story on the last page of your handout. That is exactly what they say: "This is not fair. You are wrong."

I believe I can speak for many landlords and tenants in a similar situation. Who would invest in a building that is forced to lose money? You devalued my building so I will never recover my investment, again in the name of providing below-cost rents that do not reflect the value of the building and for tenants who have had the courage and the moral conviction to say that you are wrong, that this is not fair.

You have put me between a rock and something hard. I suppose the most hurt is what you have done to my children's future that I have worked so hard to secure. I almost feel as if I am a traitor to my country for trying to get ahead.

In conclusion, I plead that you consider what I have said and have the courage to provide legislation that is fair, legislation that includes the landlord in the equation, legislation that supports the industry versus attacking it, and legislation that uses the very basics of economics. I warn that mistakes now will be entrenched forever in a spiral of ruin that is going to be felt by everyone.

Mr Turnbull: We heard, when there was a cabinet shuffle a few weeks ago, that Premier Rae wanted to have more co-operation between government and the private sector. For the life of me, I cannot understand how this legislation has any connection with that stated goal. Can you give me an idea as to how much equity, what percentage equity you put into your investment?

Mr Towler: Approximately one third.

Mr Turnbull: Would you say that is wiped out now?

Mr Towler: Very close to it, yes.

Mr Turnbull: And you are still losing money on the building?

Mr Towler: The rents do not cover expenses; that is true.

Mr Turnbull: So on the one hand, you have lost virtually your entire investment and on the other, you are actually losing money out of pocket each month.

Mr Towler: That is right.

Mr Turnbull: What would you suggest to persuade my colleagues over there that this is not a sham? I am concerned. We talk after hours about the legislation and I have come to the conclusion that they do not believe these stories. These are not bad people. They think that in some way it is an exaggeration by a privileged class that is trying to get some extra benefit. What can you say to them that will convince them?

Mr Towler: Try to understand the situation. Be realistic and fair. I am prepared to bare my soul. I never paid too much for my building. As I say, that building cannot be replaced for its purchase price. My rents do not cover the costs. The rents are extremely low. I am trapped in that low rent. Where is the fairness when I am trapped in that low rent and I cannot increase it to something that is realistic to cover a cost that is realistic?

Mr Mammoliti: Sir, I caught something you said and it struck me. The one third that you invested, your equity basically in the place has gone down; there is nothing left. How much of that one third is lost because of the market itself? As you know, the market is not very good all over Ontario.

Mr Towler: I have had the building for three years and certainly real estate in general has, if anything, gone up in the past three years and come back down and settled. It is still above where it was three years ago, minus considerably the low where it was three years ago, if that helps.

Mr Mammoliti: Do you have any figures for us or anything? You said one third.

Mr Towler: I just went through renewing a mortgage, and mortgage experts tell me the value of that building has decreased 30%.

Mr Mammoliti: But how much of that is because of the market itself? You are relating this to Bill 121.

Mr Towler: Would you buy a building that is forced into losing money? Maybe that is an answer.

Mr Mammoliti: No, I am asking you the question.

Mr Sola: Sir, I would like you to clarify something you state at the bottom of page 2 and the top of page 3. You say the previous owner of more than 25 years avoided rent control; hence, rents were extremely low. Then you state you have lost your down payment or your equity in the building, and you are saying at the same time that this same landlord has had his planned retirement severely devalued; years of work for nothing. If you bought the building from him, how is his work devalued?

Mr Towler: I am sorry. I did not present that properly. I mean a landlord who is in that situation trying to sell his

building today has had his investment severely devalued. I am not talking about the previous landlord of my building.

The Chair: Mr Towler, thank you for your presentation.

1220

90 DUKE STREET TENANTS' ASSOCIATION

The Chair: The last presenters for this morning are the 90 Duke Street Tenants' Association.

Mr House: My name is George House and I am a member of the tenants' association of 90 Duke Street. The association has prepared this presentation to cover three distinct areas of rent control: (1) the recovery by the landlord of approved capital expenditures; (2) problems experienced with the management of the 90 Duke Street apartment complex; (3) the intent to increase rents to cover general maintenance, repairs and other costs.

Ninety Duke Street is a high-rise apartment building of 144 units and part of a three-apartment complex, with the Monterey and Bayview apartments located on Bold Street. These are just behind the Duke Street area. There is an outdoor swimming pool located on the complex which is shared by the tenants of each apartment building. There is a total of 344 apartments all together in the three units. The whole complex is owned by the Mutual Life Assurance Co of Canada, Waterloo, and managed by RDC Property Services, a part of the investment division of Mutual Life. The local RDC office is at 224 James Street South, Hamilton. The landlord has owned the property since 1970.

The first concern relates to capital expenditures, how they are claimed and the recovery of the expenses. For example, if an individual property owner, carrying a mortgage on his property, suddenly finds he has a major repair expense that he is not immediately capable of paying for, he can obtain a loan from a financial institution, which will be repaid over a number of years so that the needed repairs can be made. The loan can be repaid, say, over five years, during which time his monthly payments would include the cost of the loan and the mortgage. At the end of the five years he has repaid the loan, so that the carrying expense on the property is now reduced by the amount of the loan payment. At this time the owner has two options: Either he can put the amount of the loan that he had been repaying into a separate interest-bearing account for future repairs or he can decide to use that money for other purposes.

In the case of the landlord being granted an increase in rent to cover the approved capital expense, his increased income from the tenants immediately becomes a new base rent of (a) the guideline of the yearly increase and (b) the approved capital expense increase. If (a) is 5% and (b) is 10%, that gives the total base increase rate of 15%. Future income from rentals will be further compounded yearly at the guideline rate. If this continues at 5% a year, say, for six years, it will rise to a 54% increase in income. This means that the original capital expense is recovered at the increased rate.

When the capital expense is fully recovered, the landlord's position is similar to that of the single-property owner, except that in the landlord's case, after recovery of the expense, he is increasing the profit factor of the original investment. Unfortunately the home owner does not have the advantage of having the carrying costs of his loan decreased by a yearly inflation rate, so his recovery time is fixed.

The tenants' association suggests that the additional profit should be placed in a building fund account for future capital expense. While it is not used, it will still earn a compounded rate of interest based on the yearly guideline increase. This is not a difficult procedure to establish. In the case of our landlord, its combination of actuarial and computer expertise can write this program into its annual budget appropriations for the apartment.

The second part of the presentation is the actual experience of problems encountered at 90 Duke Street from February 1984 to November 1989.

In early 1984, many tenants complained about the deterioration of the ceiling in the first basement level of the indoor parking garage. Moisture was causing the ceiling finish to break up, with a heavy white dust covering the car bodies. The complaints were duly attended to, after about two months, by taping plastic material to the ceiling in the worst areas of the garage. Within a year these had to be replaced because water had gathered inside the plastic sheets. This problem carried on and was replaced several times.

These problems continued until 1988, when the landlord finally decided to do something about the complaints. A consulting company was engaged by the landlord and indicated that substantial work had to be done to repair the garage floors and ceiling of the first and second basement levels and estimated that the necessary repairs would take 16 to 20 weeks. The work started in September 1988 and was not completed until November 1989, which was 14 months later. During this time the tenants lost the use of laundry facilities, lockers and parking and were subjected to extreme noise levels, extensive dust and vibrations from heavy machinery and many other problems associated with daily living in the apartment, such as restricted access to get into the apartment.

Three days after the work was completed, water from the first rainfall began leaking from the ceiling to the garage floor from exterior drains, and within three months after that the condition on the first basement level of the ceiling breakdown was as bad as it was in 1984.

The rent review board approved two increases in rent based on the capital expense claim because the work was not completed in the year from the time of application. There were and are many other issues associated with this problem that cannot be given in the time allowed for the presentation.

The tenants claim that original knowledge of a serious condition in 1984 was ignored. A Band-Aid form of protection to the cars was obviously useless. It is not unreasonable for the tenants to claim that the landlord should be held responsible for the necessary repairs that were not attended to for more than four years.

One member of the tenants' association, when questioning the review board about how it decided on the rent increase, was told, "The landlord had accounted for all the money that was claimed and therefore he was entitled to his claim." There was no consideration whatsoever given to any of the problems associated with the reconstruction

over that 14 months. It is obvious that there had to be serious construction problems with the building for the work to take more than a year to rectify.

A major concern raised at tenants' association meetings was, how could a highly recognized company with substantial real estate investments—$560 million at last statement—and in-house facilities for property control and management allow such a situation as this to occur? If proper attention had been given to the problem known in 1984, it is highly probable that the repairs needed would have cost less in time and money at that time.

The third part of this presentation relates to the proposal in Bill 121 to give the landlord an uncontested right to a 3% increase over the regular guideline rate to cover extra expenses.

These are not documented and they do not define such extras that could be covered under extra costs. This leaves an area open to landlord abuse. These increases, if allowed, will be compounded yearly, as is the same with all the other rents. The proposal should be more clearly defined so that there is a definite allocation to operating costs, maintenance costs and other costs.

Conclusion: This is a problem related to the landlord-tenant relationship. In the past, all notices to tenants in 90 Duke Street regarding rental conditions, rent increases and notices affecting the daily operation of the building have been issued by RDC Property Services, as stated earlier, which is an operating division of Mutual Life Assurance and responsible for the management of the three buildings. However, the last notice to tenants indicating an application for another increase in rent in 1991 was not sent out by RDC, which manages the property, but by Cohen Melnitzer, a law firm in London, acting as counsel for the Mutual Life Assurance Co. This same notice, which is a simple one-sheet document, was also sent to the tenants in the other two apartments, Monterey and Bayview.

Telephone calls and discussions between tenants in the three apartments were questioning why would Mutual Life Assurance Co, the landlord, have to engage an outside counsel whose reputation has received considerable media attention, when it had its own legal department that could easily have sent out the same information? Why not RDC, which was doing the same thing for the last 15 years? If the name Cohen Melnitzer, which has engaged the media to present extremely adamant opposition to the proposed NDP Bill 121, was intended to intimidate the tenants, I have to report that it has not only backfired but the high-profile reputation of Mutual Life Assurance Co of Canada is now questionable. Whatever happened to Mutual Group's vision "to be the best in the financial markets we serve"?

This presentation was prepared for the committee by the 90 Duke Street Tenants' Association.

1230

Ms Poole: Thank you for your presentation to our committee today. At the top of page 6 you said, "The third part of this presentation relates to the proposal in Bill 121 to give the landlord an uncontested right to a 3% increase over the guideline rate to cover extra costs." Then you said that the costs "are not documented and do not define such extras." In Bill 121, first, the right of a landlord to charge 3% over and above the guideline is definitely able to be contested, because there is a procedure in place at rent review to do so, but second, the act is quite specific about, for instance, the kinds of necessary repairs. I am having a little difficulty understand what you meant by that and perhaps it is just my understanding and you could explain a little more fully for me.

Mr House: When we received this other increase which was for 2.2% this year, two of the members of the committee questioned the NDP representative in Hamilton and said, "Why is this happening and how can the landlord do this without any protest?" You said: "I am sorry. I cannot answer that question because as far as we are concerned at the moment the landlord will be able to charge an additional rent if he can show that he has spent the money."

I agree when you say, how can we contest this? We now have to go through the procedure of the landlord putting out his associated costs and extra costs which are not in operating costs, and are not in maintenance costs. They do not define what the other costs are. It could be mowing the lawn. It could be planting trees. It could be doing anything which is not defined.

The landlord already knows what his operating costs are because they are included in his original rent construction. He knows what his maintenance costs are because he has the control and the knowledge of this over the past 20 years. If the other costs are not defined and he suddenly comes up with something, we now have a contest between the landlord and the tenants as to what this should be. That is not defined so far.

Mr Turnbull: Are you concerned that this legislation might diminish the standard of maintenance in your building?

Mr House: I look at a person investing money. If I am asked to invest money in an apartment complex, I have the opportunity of using that money and before I use it, I am in the position to have a look at the operation of the company, of the building, what the income is, what the operating costs are and what the maintenance expense has been over the past few years. Most are in a position before they I invest that money to call a consultant company and say, "Please give me a statement of what you think this building needs as a maintenance program." It may be that the building has had a good maintenance program. But if things happen as in our building, a delay of four years to do work which was a construction problem, we are going to come up again in two years to replace what was bad maintenance at that time.

The maintenance factor: It does not matter what you buy, an apartment, a motor car, there is always a maintenance factor associated with your purchase or with what you have. In building maintenance, there is sufficient knowledge in the business to know what maintenance costs are the most costly.

Ms Harrington: On page 6, you stated that the increases will be compounded yearly and Bill 121 should substantially be amended. This has been brought forward to us by several different groups that once something has been put in it should not keep compounding year after

year. We call that costs no longer borne. We are looking at an amendment which would deal with this type of situation. Would this be something you would recommend? Is this what you are asking us to do?

I also wanted to ask you what kind of increases you have had in your building. Your actual rent, what would it be?

Mr House: Our rent has gone up in the last three years by nearly 30%. That is two increases, and I say that is because of the guideline increase and the two increases that were approved by the rent review board on the capital expense to put the basement factor right. Can I get your question right again? You are talking about the separation of costs. It does not matter what the costs are, if the landlord gets an approval to have these costs included in the rent, that rent now, further down the road, is continually compounded every year.

If you want an instance of compounding rates and the rent in our apartment building from 1990 up until this year, if they get an increase of four points next year, the rental income for the building on a yearly basis is higher than the original mortgage. You cannot call that a bad investment.

Ms Poole: Perhaps I could have a request for the Ministry of Housing. This morning during the brief from the tenants at 851 Queenston Road, Stoney Creek, the idea was mentioned of having a real estate deal not allowed to close if outstanding work orders exist, that they should be cleared up prior to closing the deal. I do not know whether this would involve having work orders filed on title or what it would involve, but if we could perhaps have an opinion at some stage in the next few weeks from the ministry as to what legislation would have to be amended, what procedures would have to be enacted to put such a thing into effect, I would very much appreciate it.

Ms Parrish: We will look into that. If I could just clarify, what you want us to do is to tell you how you could do this if you wanted to do it.

Ms Poole: Yes, what legislation and what procedures we would have to have.

Ms Parrish: I do know that in many municipalities the current practice is that when there is a transaction involving a building which has a work order, the work order is lifted in order to sell the building and then the work order is reissued. It is quite common that the new landlord will be given some additional period of time to comply with the work order, but practices are not uniform across the province.

The Vice-Chair: For the committee members, I would remind you that we will start again at 2 o'clock. The instructions to the Chair are that we start at 2 o'clock precisely, regardless of attendance by members. It would be most helpful to the Chair if all members would make a point of being here on time.

The committee recessed at 1236.

AFTERNOON SITTING

The committee resumed at 1400.

Ms Harrington: Mr Chair, I have a very brief point of order. During the lunch hour, I had notice here of a press release that was given out by one of the members of this committee. It was Ms Poole. Unfortunately she is not here at the moment. I just want to clarify the matter. In this press release it implies that this committee and the government are not listening or are not open to amendments.

I think at the very first day of the hearings—this was two weeks ago—I made it clear on behalf of the ministry that we are open to amendments, that this is not interim legislation, this is long-term legislation and we very much want to have this a workable situation. That is why we are out here. That is why we are listening. I think anyone who was here this morning would see that we are here to bring amendments back to the Legislature. I certainly hope no member of this committee would try to undermine the work of this committee.

The Chair: It is not really a point of order. It is a point of information, a point of disagreement. I do not think it is necessary to have a lengthy discussion on the matter. The matter has been put forward by the member and it has been dealt with.

SMAR HOLDINGS LTD

The Chair: I would like to call the first presenter for the afternoon, Arun Pathak, Smar Holdings Ltd. Arun, we have been allowing 15 minutes for presentations. Presenters can withhold some time, if they wish, for questions and answers.

Mr Pathak: Actually when I came I was told that I should try and keep my presentation to about half that.

The Chair: Then you will get more questions.

Mr Pathak: My name is Arun Pathak and I am the property manager for Smar Holdings Ltd. I grew up in London, England. The main reason I moved to Canada was that it was advertised as a land of opportunity and a multicultural society. Here I expected that my children would not have to face the discrimination I faced. To be called a Paki to your face is not a pleasant experience, but you ignore it and put it down to the ignorance and stupidity of the speaker.

To read that a Minister of Housing says he is allergic to landlords is many times more annoying. Should I ignore that and put it down to the ignorance and stupidity of the speaker? I fully understand what prejudice is and I have seen my fair share of it. But until today I have never, ever complained about any form of prejudice.

Today I have come to tell you that Bill 121 is discriminatory and based on the prejudice this government has against me—not because of my skin colour but because of my profession. Many people thought that Dave Cooke was joking about being allergic to landlords. No, that was not the joke, that was his prejudiced feelings showing through. The joke was when he said that Bill 121 would be fair to landlords. For a person to say that this bill is fair to landlords requires him to be ignorant of the facts or too prejudiced to believe the facts, or just plain and simply dishonest.

According to the figures in the green paper, guideline rent increases have been 100.5% over the last 17 years, while inflation has gone up 120%. Can you honestly say that the guidelines have been too high? Now it is proposed that a guideline should allow only half of inflation experienced in apartment buildings. It looks to me that the government's reasoning is, landlords are bad, tenants are good; if we rob the bad to support the good, then we are good.

Working with the figures in the green paper, I calculate that over 200,000 units will require capital expenditures averaging about $35,000 per unit. These are older units with lower rents. Many may be renting for $300 to $400 per month. To go out and borrow the $35,000 to do the work will cost the landlord nearly $400 per month, which we have to recover from a rent increase of $9 to $12. Is that possible? Do not tell me that they can subsidize the unit and make a profit when they sell the building, because after spending $35,000 on improvements, many of those units are still not worth $35,000.

I can understand this government's opposition to 100% rent increases, but the solution is to phase in rent increases due to capital expenditures at 8% or 10% a year until it is all recovered. The 3% for two years is totally inadequate.

Some people think that doing capital expenditure is an easy way for landlords to make money, but that is not true. A look at the buildings in Ontario will tell a person of reasonable intelligence that it cannot be true. If doing capital expenditure was an easy way of making a profit, then the majority of buildings in the province would be in a much better condition. In my experience, doing capital expenditure usually results in a negative cash flow because of different amortization periods. The landlord actually loses money on a month-to-month basis.

Yes, there may have been abuses of the system. The welfare system may also have been abused sometimes, as have many other systems, but we must ensure that landlords can finance and afford to do capital expenditure.

When non-profit needs a subsidy of over $11,000 per unit per year, how can you say that a landlord who is charging $300 or $400 per month should get only half of inflation for his rent increase. That $11,000 subsidy will add up to billions of tax dollars if this government builds the number of units it has talked about.

What is the reason for spending $11,000 per unit per year to subsidize non-profit housing? The reason is that the private sector is not building residential rental units. The private sector builds office buildings when there is a 10% vacancy rate. They build shopping malls. The private sector will build almost anything except rental apartments. Do these people love half-empty office buildings? Perhaps they do not know how to build apartment buildings. No, the truth is that they would rather have vacant office buildings than apartments.

1410

Rent controls in the last 17 years have kept apartment rents so far below market value that nobody wants to touch them. The value of apartment buildings has been held back

by rent controls. Many of the buildings which were sold in recent years at what this government believes were high prices were actually sold for less than the land value. The apartment building is not an asset; it actually reduces the value of the land.

This government has conducted what it calls a consultation process prior to formulating Bill 121 and part of that was a paper called Rent Control Options—this thing—which was circulated mainly to tenants. This paper was the most disgustingly biased questionnaire I could imagine. No, let me correct that—it was more biased than I could imagine.

Let me give you an example. One of the questions asked was: "On what basis should rents be allowed to increase above the annual guideline?" Of the three options, option C should have been a separate question because it dealt with equalization. Option A was the one intended to be selected. Option B was the only option in the whole paper with a rhetorical question mark at the end. But look at what the option says: "Allow landlords to apply for costs related to purchasing or operating the building?"

If a person is to buy a building, where is he going to cover his cost related to purchasing or operating the building? Is the suggestion that a person should buy a building and pay the mortgage out of his wages? Is he or she a charity? Where should the money for operating the building come from?

All economic theory and justice dictates that rents have to cover costs related to purchasing and operating the building. But this government is so prejudiced against landlords it seems determined to ignore economics and justice when it comes to rent control. These costs are real costs and justice and fairness demand that they be covered by rents. If an individual cannot afford to buy his food, shelter and other necessities of life, that has nothing to do with rent levels—it is a sign that the government is unable to provide enough assistance.

I do not agree with rent control and I think it should be phased out. But if we are to have rent control, I will tell you what should be in the new rent control system so as to give the best protection to the tenants of today and tomorrow while being fair to landlords.

The guideline should be maintained at a minimum of two thirds of inflation plus the 2% for all sizes of buildings. Extraordinary operating costs allowed should include all costs, including maintenance. Interest rate changes, financial loss, economic loss and relief of hardship should be allowed to be phased in at 5% over the guideline, but to prevent flipping of buildings, they should be disallowed for one year when a building changes hands. Unnecessary capital expenditure should be disallowed, but legitimate capital expenditure should be allowed in full, phased in at 8% or 10% over the guideline rate. Equalization of rents in a building should be allowed. This does not affect the landlord's revenue but is fairer to tenants. Where a landlord makes an attempt to keep up the maintenance to a reasonable standard, the tenants should not be allowed to get a reduction in rent because of tenant vandalism. The present proposals will encourage vandalism by tenants to get the rent reduction.

In closing, I would like to say that lessons must be learned from history. For about 70 years, Russia has attempted a government-controlled economy for everything and it has been a failure. The country is bankrupt. The controlled economy has produced a shortage of everything. In Ontario for 17 years we have had government control on rents and we have a shortage of rental housing. It is not a coincidence. It is cause and effect in both cases. History will show that rent controls have never worked and will never work because you cannot continuously get $1,000 worth of housing or anything else for $400. Please, let's forget the ideology and the failed systems and work together for better housing in Ontario.

Mr Tilson: Obviously Bill 121 is part of a big plan. We have heard from a famous interview—or notorious interview I suppose—what Mr Rae plans to do with the housing industry. I would like you to comment as to what you anticipate would be the effects of Bill 121 on the taxpayer. We have seen how health costs in this province have gone out of sight. We have seen how the government has given almost $4 million to lobbyist groups to lobby in certain directions and tremendous subsidies for non-profit housing and co-op housing. What effect will that, plus the bureaucracy, and Bill 121 have on the taxpayer? Need they be concerned?

Mr Pathak: They should be very concerned. Even in recent times when there has not been a construction of apartment buildings there have still been rental units coming on to the market in the way of condominiums. I anticipate even that will dry up and there will be no more units available for rent. The government will have to build them all and they will do them at the taxpayers' expense. This is going to cost billions of dollars if the government is going to do all the new rental construction. This government cannot afford it. It needs the private sector money, but you cannot get money out of a corpse. If you are going to kill the industry, then you are not going to get investment from the private sector.

Mr Abel: Do you still have an apartment building in Dundas?

Mr Pathak: I have never had one in Dundas. I live in Dundas.

Mr Abel: Was it west Hamilton? Where was your apartment building? I remember you had come to talk to me some time ago.

Mr Pathak: Yes, I must have spoken to you about one on the mountain on Fennell Avenue.

Mr Abel: What increases have your tenants received in the last four years?

Mr Pathak: I have not been managing that building for four years. We have had it for about 18 months now. That building loses money every month and will continue to lose money every month.

Mr Abel: It is my understanding that you have managed a building for at least four years. That is the building I am making reference to.

Mr Pathak: Five per cent over the guideline is what we have had on other buildings.

Mr Abel: Five per cent over and above the basic guideline.

Mr Pathak: Yes.

Mr Abel: Are any of your tenants on fixed income?

Mr Pathak: Yes, I am sure there are. I also have some tenants who are subsidized by Halton Housing. They are obviously on a fixed income. I recently asked Halton Housing if it wanted to have some more units in that building but the request just got lost in the bureaucracy.

Mr Abel: What effect have these increases had on the tenants financially, as well as on their quality of life, the ones on fixed income?

Mr Pathak: Obviously it has had an effect, but are you expecting a landlord to—

Mr Abel: I am not suggesting anything. I am just asking, the way you see it, what effects have these increases had on these tenants?

Mr Pathak: I still see them going away for their holidays. I still see them driving around in their cars.

Mr Abel: So you are saying that it has not affected their financial situation or their quality of life in any way.

Mr Pathak: No. Perhaps they cannot spend so much on their holidays this year but they are still doing okay, many of them. Some people will always be in a problem situation and I should not be subsidizing them. The people who have a problem should be subsidized by the government.

The Chair: Order. That is about four or five questions. We are getting close to the expiry of time.

Ms Poole: We have had a number of presenters to our committee, both landlords and tenants, who have expressed a concern about the maintenance work order provision: the landlords from the point of view that they are too punitive and if the government is not going to allow an adequate allowance to put in the proper capital repairs, then it is unreasonable to expect the landlords to go ahead and do them; and the tenants from the point of view that if they are too punitive, they are worried that the municipalities will not enforce them. Could you make some suggestions or comments about the provisions in Bill 121 for work orders and for the maintenance and do you have some suggestions for how you would like to see it dealt with?

Mr Pathak: One thing I have had trouble with in the past on work orders and so forth is where tenants have gone directly to the building department, the health department and so forth without even putting in a complaint. A few years ago I had a situation where the health department phoned me up and said that apartment so-and-so had insufficient heat. The inspector was up there with a thermometer. He told me to go up and do something about it. I went up to that apartment, pulled aside the blinds and closed the window. That solved the problem. But that tenant did not approach me.

I have had other instances where tenants have gone to building departments or whoever they can complain to and have not actually come to me before doing that. You cannot run the system with a stick. I am telling you it just will not work, no matter how hard you try. Even in Russia they are not going to be able to run the system with a stick. They are going to try it now.

Ms Poole: One of the suggestions by the Urban Development Institute yesterday was that the landlord be entitled to have 30 days to clear up the problem prior to a work order being put on the property. Do you see this as being helpful, and where would you take it from there?

Mr Pathak: Yes, the landlord should first get informed of what work needs doing, preferably. The tenant should do it before the city gets involved or brings it in to the standards board. The 30 days may be fine for some items, but other items may take longer to do, so there should be some flexibility. Before a work order is issued, I would think it is common courtesy to call the landlord and say, "Do you realize this is a problem, and can you tell us what you're doing about it?" Most landlords will respond. They do the work that is necessary.

1420

HOUSING HELP CENTRE

The Chair: The next presenter is the Housing Help Centre, Guelph.

Ms von Dehn: Good afternoon. My name is Stephanie von Dehn. I work in the Housing Help Centre in Guelph. This presentation shall be brief so that I may take some questions. The points I wish to make come out of my day-to-day experiences as a case worker at the Housing Help Centre in Guelph. In my work I am faced daily by tenants trying to retain their housing or desperately trying to find some affordable housing because they are completely without housing, and others are seeking help with serious and long-standing maintenance problems. Therefore my comments reflect what is really out there in tenants' real-life situations.

Economic eviction is very much a reality. A large percentage of tenants out there are already paying the maximum they can afford for rent, if not more. This is the result of past increases under the present rent review system which have outpaced increases in the tenants' incomes. Any single-income family, anyone on a fixed income and anyone working in lower-paid, non-union work is extremely vulnerable. I see people on a daily basis who have one thing go wrong in their lives, perhaps a reduction in work hours, an unexpected emergency expense or a temporary layoff. Because they are already paying high rents, they therefore have been unable to save money, so they are very quickly in arrears and face eviction. Even a small increase can throw a household's budget out of line and they face economic eviction.

A case in point is a woman I had earlier this year who faced probably not more than a 12% increase. That was before the freeze and she had to make the decision to move out of her three-bedroom apartment, where she had a son and a daughter. They are now living in a two-bedroom apartment and the mother shares a bedroom with the 12-year-old daughter, which is not an acceptable situation when you think what that would do to family life with a child that age.

Another example is an immigrant family that was in a two-bedroom, ground-floor apartment. They faced a rent increase and were forced to move into a basement apartment that is damp. It may be affordable, but it certainly is not suitable. I would say that even though the group that is paying more than it can afford for rent is not the majority

right now, the key point is that it is increasing. The percentage is going up all the time. If we are looking at 8% increases where people's incomes are not going up at that rate, fairly soon it will be a very large portion of the renting population that will not have the right to housing they can afford.

At the same time, in our community there are some landlords, both large and small, who have managed to provide decent housing at very affordable prices without letting their units slide into disrepair. They have had no need to apply to rent review for above-guideline increases. In many cases they have been in business for a number of years. We have a large corporate landlord in Guelph who owns several town houses and manages them in a very businesslike fashion. I would say their three- and four-bedroom town houses are between $600 and $700 rent a month, which is a reasonable rent in our city for that size unit. They have not had to go for above-guideline increases and seem to be managing just fine. When you go and look at the project, it is kept up well.

We also have a small landlord in town who owns a handful of buildings. They are furnished apartments. That landlord has not had to have to an above-guideline increase for 20 years and those buildings are in fairly good shape too. We do not get complaints. We can recommend that landlord.

Unfortunately a larger group of landlords has mined the equity of their buildings, not using rents collected to keep the buildings up, but rather using the rents collected to finance other ventures. These properties have been flipped and refinanced again to finance other ventures. The costs are being passed on to tenants, in some cases, through past rent review orders and the repairs still have not been done on these buildings.

We have a small landlord who has maybe two dozen buildings now and he never repairs the buildings he has; he just buys another one if he has any money left over. It was so bad this winter that Hydro pulled a woman's rented hot water heater out of the basement because there was a huge hole in the side of the basement wall so that the temperature in there was constantly below freezing, causing the pipes to burst and this rented hot water heater to be under water. Finally Hydro took it out, saying, "We refuse to give it to you until you fix your basement so that it will stay above freezing." That tenant was able to end her tenancy through the courts, but that unit is lost. That is an example of why I do not think it has to do with small or large; it has to do with good business practice.

We also have a huge corporate landlord this winter who took off and left town and the building has been through two owners since then. The buildings are incredibly rundown and the tenants are facing—it is not even clear. The rents are so messed up that we do not know whether they are legal or illegal, but definitely the rents are fairly high. They have not been kept up, so the money has gone somewhere else. That company has left town with those funds. This is the group of landlords who in my mind are the ones to focus on in these hearings.

It is these landlords who, with the help of their consultants, will find the loopholes in this new legislation to get the maximum 8% increase every year into posterity. The other landlords, who have been keeping up their buildings for years within the guidelines due to good management, will not be applying for above-guideline increases. The wrong landlords will be rewarded even by the limited pass-through opportunities of this new legislation. It is the landlords who have mined their properties to invest in other ventures whose buildings need enough work done on them now to request 8% increases into posterity. My comment would be that these landlords are overextended. If they have financial problems they can consolidate their assets. They can sell off something so they can put back the money they originally sucked out of other buildings to do the repairs that are needed.

I think tenants deserve an explanation of why a reserve fund system was not chosen to prevent the type of equity mining I am talking about in the future. As an absolute minimum, I think it is essential that the legislation be improved to demand that landlords be able to document how the 2% has been spent on capital expenditures in every year, not just the year of an application. This documentation should also include how they have spent the 1% they have had since 1986, and what kind of capital expenditures they have to show for that. I think which costs are no longer borne could be calculated in, because there is a time frame for most expenses that eventually should be removed again from these documents. This information must be available to tenants upon request in a usable form, both when an application is made and also when the tenant may want to make an application for a rent reduction where maintenance has been inadequate. This is an absolute must in order for unjustified increases to be contested by those they affect the most, namely, the tenants.

Several other things occurred to me that were potential loopholes. I am concerned that in the applications being made for expenditures during the time of Bill 4 it is not written the same way as in the list of eligible reasons for the new legislation. I would like the word "eligible" to be added because I am concerned that if those applications are considered, they will be considered for expenses that would no longer be acceptable. I believe the applications that are approved of this group should be only the extreme hardship situations. The few cases where landlords truly have been up against the wall by the rent freeze might be able to be corrected, but I believe they are a very small number. Most of those were expenditures those companies could afford.

I have serious concerns about tenants being put under duress to sign for repairs that requires tenants' consent. There is no clarity at the moment in the legislation about how this will happen. I think many tenants, when they are approaching moving out, can be pressured into signing agreements that renovations should happen to their apartments, when they know what they really want is a favour from the landlord, like perhaps a release from a lease or a transfer to a larger apartment in the building. That could be abused by landlords, to wait until someone is moving, get them to sign these documents, let them off the hook on some much smaller point and then renovate, with permission,

and then up those rents. They will be lost from the affordable housing stock.

1430

Finally, I would like clarification on how maximum rents will be determined because I have already, in the last few months, come across landlords setting artificially high maximum rents on paper, where they intend to rent a unit that has been maybe an owner-occupied house for a while, because they are worried about what this legislation will say. They are writing a higher rent in the lease and then accepting several hundred less as the actual rent in cash. But the tenants are not in a position to demand receipts for it. In some cases there are going to be no accurate records of what rent is really paid. Down the road, those landlords will have leases that have a different amount on them than what actually got paid. It should be very clear what "maximum rent" actually means or else maximum rent should be actual rent.

Those are just a few comments I have and I would like to answer some questions. Thank you.

Ms Poole: Thank you very much for your presentation today. With reference to your comment that the affordable housing stock in our communities has already been very seriously eroded, I have a couple of questions about non-profit subsidized housing, not only in the area but generally. As a tenant advocate, I know you probably deal with both sectors but that primarily much of your job is dealing with the tenant sector. Do you feel it is appropriate to have subsidized housing covered under rent control? As you realize, it is not covered under rent control right now, which is of concern to both tenants and landlords.

Ms von Dehn: There are particular areas where people in subsidized housing are lacking protection right now, but that is an area I have not done enough research on to give you a comment. Even those households experience financial fluctuations where they perhaps cannot handle an increase and it should be regulated how much it can go up at one time so their budgets can adjust and so on.

Ms Poole: From your experiences, you would tend to concur that there should be some provision in the legislation for the subsidized housing?

Ms von Dehn: Yes.

Ms Poole: The second question I have also relates to the same area. My understanding is that with the cancellation of the Red Hill Creek Expressway in December some 3,500 affordable non-profit housing units have been put on hold. Has your group taken an advocacy position in regard to this housing? It sounds like you have a fairly serious affordable housing stock problem in the area?

Ms von Dehn: I believe that is in Hamilton. Our centre is in Guelph and we tend to take action on issues in Guelph. I am aware of that situation but we have not been involved in that.

Ms Poole: Is the Hamilton Housing Help Centre involved?

Ms von Dehn: I do not know the answer to that question.

Mr Tilson: You made some comments with respect to the quality of life, the property standards issue. You are not the first individual, as I am sure you know, who has made these comments, not only during these hearings but during the Bill 4 hearings. It would appear to me that the municipalities, at least from listening to people like yourself who have come forward to us, either do not have the resources or do not have the ability to enforce their property standards bylaw, or they are inconsistent with other municipalities. I do not know how much you have looked at that.

You referred somewhat to quality of life in your comments. Do you feel that whole subject should perhaps be taken away from municipalities and made more uniform? The property taxpayer cannot afford it. Perhaps the province could be in a better position financially to be more uniform throughout the province. Have you or anyone in your organization had any thoughts on that subject?

Ms von Dehn: I think there are pros and cons in that issue. I know in smaller communities there is often the problem that the property standards officer plays golf and happens to know the local landlord or a number of them and will go lightly on them and perhaps not enforce standards he should be enforcing. It is because the communities are small and people know each other. I would hate to see it taken away from the municipalities and then—

The Chair: I just want to remind the witness that she has accused a public official of not doing his or her job because of a personal friendship. It is not for me to decide what you say is right or wrong, but you should know what you have just said.

Ms von Dehn: I accept that responsibility. But there is also the problem that if a tenant cannot take action locally because a complaint has to go to another city, that could be a problem as well. It could take a long time, and I would not want that to happen. If something can be worked out where a tenant has access to an outside inspector as a second level or a place he can go if he is not getting results from his local authority, I think that might work.

Mr Mammoliti: Very quickly, because my colleague has a question as well, Bill 121 will prevent landlords from applying for an increase if there is an outstanding work order on a particular unit. You know that. There have been some landlords in front of us who have said that tenants are going to do damage and know to do the damage so they will not get an increase. What they are saying is that they are going to do damage on purpose. They are going to break things so the landlord cannot ask them for an increase in the rent. For instance, Mr Pathak is one of the landlords who has mentioned it. I have consistently asked these landlords whether they have statistics and can prove it. None of them has come up with any statistics; none of them can prove it. What do you have to say as a tenant advocate to the landlords who have been saying, "They're going to break this stuff on purpose?"

Ms von Dehn: I can speak from my experience because we serve small landlords as well. Very few of them have come to say the tenant has maliciously destroyed their property. In the few cases that have come up, it has almost always been clearly obvious that the tenant did it

and they end up having to pay for that expense. They get taken to court. But it is an extreme minority and I do not think that cost would be transferred to the landlord where it happens.

Mr Tilson: On a point of order, Mr Chair: Mr Mammoliti has referred to the fact that no statistics have been put forth by landlord groups. There have been many statistics put before this committee which I draw to his attention: the examples of the city of New York, all the American jurisdictions that are into rent control, Sweden, every rent control jurisdiction in Europe where these games are being played. So I say he is out of order in saying there have been no facts put forward.

The Chair: That is not really a point of order, it is a point of information and a dispute about information.

Mr Abel: The previous presenter indicated to this committee that he had, over a few years, been awarded 5% increases above the guideline, so that would bring it up to about a 10% increase. With average wage increases hovering around 5%, 6%, what effect did that have? I asked this question to the previous presenter but he did not feel it had any effect. What effect did it have on your clients in terms of financial security or quality of life?

Ms von Dehn: Those small increases can make a very large difference because many tenant budgets are already stretched to the limit. They may be making use of a food bank, they may not. In the increase I was talking about earlier, the woman experienced an 11% or 12% increase. It was only about $80, but that was $80 she absolutely could not come up with. She had to find alternative accommodation because she was behind in her rent, and in her case there was an unexpected cost around the same time where one of her children required dental work. Something as simple as that can put a tenant out who is already right at that turning point where statistically they might look like they can still afford their place, but any small thing makes them so vulnerable that they fall behind in their rent.

Mr Abel: So you are saying it could have very serious impacts.

Ms von Dehn: Yes.

The Chair: Time has expired for this presentation.

Mr Morrow: On a point of clarification, please: I would like to clarify something Ms Poole said about the Red Hill Creek Expressway causing affordable housing in Hamilton—

The Chair: Order, please. I do not think there is any need because there is nothing out of order. No one is out of order. Ms Poole, like any other member, can give her opinion on things and everybody will agree or disagree based on how they see the issue. If it was a point of order on a procedural matter, believe me, I would let you go on and we would have debate.

Mr Mammoliti: Why do you not hear him out first and then rule?

The Chair: Because the gentleman did not ask for a point of order, the gentleman asked for a point of clarification and now he wants to clarify something someone else said.

Mr Morrow: Point of order, then.

The Chair: We are going to run this committee under the rules established by the Legislature.

Mr Morrow: You are not going to recognize my point of order, then?

The Chair: It was not a point of order. I am sorry, Mr Morrow. If it was a point of order, I would have recognized it. I have been doing that all day long.

1440

ITALO GALLACE

The Chair: Italo Gallace, you have 15 minutes, like the other presenters, and you can save some time for questions and answers if you wish.

Mr Gallace: My name is Italo Gallace and I am again here today on behalf of myself and as a member of a group of people who pooled our resources, borrowed or otherwise, and purchased an apartment building in our neighbourhood.

I made a submission to the Bill 4 committee on February 1, 1991, at which time I was optimistic and hopeful that the NDP government would indeed listen to all the parties concerned and enact fair and just legislation. I stand here today, six months later, bitter and disappointed, knowing full well that the NDP conveniently ignored all submissions from landlords and passed Bill 4 as though landlords did not even exist.

You were warned of its disastrous consequences, but you paid no attention. I stand here today to repeat to you what many others have also told you, that the value of all apartment buildings in Ontario has dropped 20% to 40% strictly as the result of Bill 4 and this proposed legislation known as Bill 121. You must also know by now what such a dramatic devaluation does to banks and other financial institutions which finance these buildings. Since all equity which was the down payment has basically evaporated overnight with the passage of your draconian and ill-conceived legislation, it is now impossible to refinance most of the buildings purchased in the last three or four years.

The other matter of which I am sure you must be aware as learned members of this committee is that the same buildings purchased in the last three or four years are operating at substantial cash-flow shortages and that the owners have used up all their resources to make up these shortfalls month after month, year after year. Since your legislation has retroactively cancelled all allocations for financial loss, it means these buildings will continue to lose money year after year until the present owners basically go bankrupt.

Faced with this dilemma, people of other businesses could pick up their machinery and move it to another province or another country, or they could lose the business and sell off all assets and attempt to pay off the banks and the creditors and hopefully avoid personal bankruptcy. But I am certain all the learned members of this committee know very well that the people who have chosen apartments as their business cannot pick them up and take them to another province, they cannot shut them down, they cannot convert them into something else and they cannot sell them and pay off their debts. It seems that these apartment

owners are now trapped and the only thing they can do is personal bankruptcy.

It is very convenient for the NDP to be generous to all tenants, regardless of need, and cancel approved rents, but totally ignore the corresponding expenses, since it is only the landlord who has to pay them. It is very generous of the NDP to force building owners to continually subsidize the rents of all tenants until these owners go bankrupt, since landlords do not really count.

Your ill-conceived legislation has succeeded in changing a mutually beneficial relationship where tenants are provided with comfortable accommodation and the owner is able to generate enough funds to at least operate the building on a break-even basis into a relationship where tenants have become little better than parasites, where they take and take until there is nothing left to take, since the landlord is now bankrupt.

You and your legislation should be quite proud of these accomplishments. Every member of this committee knows that buildings purchased under the old Liberal legislation simply cannot make it under this proposed legislation. You all know very well that this proposed legislation cancels the needed rents to eventually break even and that without these rents the landlord will soon face total financial ruin, and still I have yet to see among all your mountain of proposals, booklets, pamphlets, letters, etc, a single page or a single paragraph or even a single solitary line trying to address the fact of building owners who are being driven into bankruptcy through no fault of their own. It is as though the NDP has put its collective head in the sand and conveniently pretend that it and its legislation have no part in destroying the lives of some of Ontario's hardest-working citizens.

Contrary to what the NDP believes, landlords are business people who are skilled and ambitious and who are not afraid to take chances. They are the same people who build plazas or houses or businesses. They take on these tasks with caution and calculations in the hope of making few errors in judgement or in mathematics so that at the end of the project, if everything goes well, there may be some kind of return for their work and for their risk. These are the people we need if Ontario is to thrive and prosper, and these are some of the very same people the NDP is bankrupting.

If the NDP believes that there is no room for private ownership of apartments in Ontario, then have the decency to say so and you shall find these individuals seeking opportunities in other areas in this province, if possible, or outside the province, where they are made more welcome. But to simply enact legislation that destroys them is nothing less than criminal.

At first I was hopeful that the NDP government would forge a union of all the principals of Ontario's economy where co-operation and goodwill would enable us to become strong competitors in the global market. Instead, I am finding a government out to destroy in a few months what it took individuals a lifetime to build.

As a last resort and final attempt to communicate with this government, I urge you to put forth the following proposals to this legislation:

1. Assistance must be made available to landlords who shall go bankrupt because of renewal of refinancing. They simply no longer qualify, not even for the existing financing;

2. Assistance must be made available to landlords whose rents simply are not sufficient to meet the corresponding expenses. You cannot continuously feed this building; you are going bankrupt.

Are these unreasonable requests? You are the judges.

Do I have any hope of these proposals becoming a reality? Absolutely none. This government, with all its preconceived ideas, will not listen and actually sees the financial ruin of landlords as a welcome bonus of this legislation.

This government is also conveniently wasting people's time and money with these consultation hearings and submissions, for they are nothing more than charades to justify what you intended to implement from the very first moment, without changing a comma. After all, this is your concept of consultation and working together. I know that I, along with everybody, accomplished little by being here today. Nevertheless, my message to you and Mr Rae and Mr Cooke and Mrs Gigantes is that Bill 4 and this present proposed legislation is a disaster to apartment building owners and those of us who somehow manage to survive and those of us you forced into personal bankruptcy. We shall not forget and we shall not forgive.

The Chair: Thank you for your presentation. We have approximately seven and a half minutes for questions. We will divide up the time.

Mr Mammoliti: Sir, do you believe that a relationship should exist between landlords and tenants?

Mr Gallace: It is better for everybody.

Mr Mammoliti: Do you practise good communication between you and your tenants, and do you do the repairs, as necessary, when they ask you to?

Mr Gallace: The only thing that I request from tenants is to put it in writing.

Mr Mammoliti: But have you practised this?

Mr Gallace: Once they are received in writing, they are done.

Mr Mammoliti: So you claim that you have come through with the requests?

Mr Gallace: I can give every single building that I am involved with, which is three buildings.

Mr Mammoliti: Just so you know, we had some individuals who belonged to the 11 Catalina Drive Tenants Association here this morning, and they claimed that you do not communicate and you do not necessarily follow through with all of the communication in the form of asking you to do work in their particular units. What do you have to say about that? Here we have you saying that you do it and your tenants are telling us that you do not.

Mr Gallace: What I was saying to the tenants of this building or any other building is: "Put it in writing. It will be inspected." Okay? "If it is justified, it will be done."

1450

Mr Mammoliti: They claim that they already have put it in writing a number of times.

Mr Gallace: Anything that I am involved in, it was. On Catalina, again, I do not manage the building, so I cannot help you.

Mr Mammoliti: What I would suggest to you today, sir, is to perhaps have a talk with the tenants' association. Communication is very important, and perhaps they are here still. You can take them aside out in the hallway and talk about their concerns. Here again you are saying one thing and your tenants are telling us another.

Mr Gallace: You do not seem to hear. I do not manage Catalina, I am not involved.

Mr Mammoliti: Is it Queenston Road? Yes, 851 Queenston Road.

The Chair: Thank you, Mr Mammoliti. Ms Poole.

Ms Poole: Thank you for your presentation. Early on—

Mr Mammoliti: Is that three minutes?

The Chair: Excuse me. Mr Mammoliti, you are continually questioning all of my judgements on time and everything else. Do you want me to put the clock in front of you? I told all committee members before we started that there were seven and a half minutes for—

Mr Mammoliti: Relax.

The Chair: You relax, because you are giving the witnesses the wrong impression.

Mr Mammoliti: I am just simply asking a question, sir.

The Chair: Mr Mammoliti, I am not here to steal time from you.

Mr Mammoliti: There is no need to raise your voice. I am just asking you a question.

The Chair: What is the question?

Mr Mammoliti: The question is, you said that there were seven and a half—

The Chair: Yes. Your time has expired. Mrs Poole.

Ms Poole: Early on in your presentation, you talked about the fact that for financial institutions it is now becoming impossible to refinance most of the buildings purchased in the last three to four years. Is this a situation in which you find yourself, or have you had personal experience of this happening?

Mr Gallace: Yes. Basically there have been two mortgages that have come up for renewal, first and second. The situation there is that you try to combine two mortgages into one. The buildings simply do not qualify. The owners, which is a group of us, were forced to put mortgages on our own houses to be able to come up with the extra money.

Ms Poole: So basically the financial institutions are refusing to give you a mortgage unless you give them additional collateral, your own homes.

Mr Gallace: Yes. The buildings have dropped in value substantially and no longer qualify, whereas they were qualified last year.

Ms Poole: When you were applying for the mortgage, did you have an evaluation which showed that there was a significant decrease in the value of the buildings?

Mr Gallace: Correct. Any appraiser will tell you, and we have qualified appraisers which cost us $2,000 or $3,000 because the banks will not finance anything without an appraisal, that there has been a major drop in the value of buildings.

Ms Poole: Did they give you a rationale for the decrease in value? Did they say a certain amount of it or all of it was due to the recession and the decrease overall of values in real estate, or did they say that a certain amount of it was due to rent control legislation and the fact that the revenues would not support the new mortgages?

Mr Gallace: The recession has very little to do with the value of a building. It is strictly 100% the legislation.

Mr Turnbull: When you went out for the financing, what kind of financing organization did you go to, a bank or the trust company?

Mr Gallace: Every single organization we can go to, including trust companies, banks, life companies.

Mr Turnbull: Were there some of the companies that said they would not take any more apartment building loans at all?

Mr Gallace: There is presently one trust company, which I will not mention, that will not consider apartment buildings. At the same time, we cannot find anybody who even wants to buy them for any price at this time. We do not even have an established price. No sales have taken place in the last year that I am aware of.

Mr Turnbull: Would you say that the price at which you bought this last building was a fair price?

Mr Gallace: At that time it was a fair price. I believe it was just under $40,000 a unit. For a quality building, it costs $100,000 to replace. I thought it was a fair price.

Mr Turnbull: In terms of the refinancing, what sort of debt coverage did they allow?

Mr Gallace: The debt service is now 1.2—I believe I understand your question—as opposed to 1.05 at that time, because the risk has gone up substantially.

Mr Turnbull: Was it a trust company that turned you down completely?

Mr Gallace: Yes.

Mr Turnbull: Had they in the past actually offered loans on the property?

Mr Gallace: It was their own mortgage that they wanted to be paid out.

Mr Turnbull: Could you tell me—

The Chair: I am sorry, Mr Turnbull, your time has expired. Italo, thank you very much for your presentation.

QUEENSBURY COURT TENANTS ASSOCIATION

The Chair: Next is Queensbury Court Tenants Association.

Mr Maycock: My name is Earl Maycock. I represent the Queensbury Court Tenants Association, located at 3020 Glencrest in Burlington.

I would like to commence by saying how much we appreciate the forethought and hours spent by your committee in formulating the compendium on Bill 121 and the opportunity afforded tenants and landlords to study it and be allowed to present some input, whether pro or con, into

the final composition of a permanent Rent Control Act. Although we do live in a democratic society, we rarely have the opportunity to participate in the formulating of laws in our fair country and we do thank you sincerely for this.

There are some items with which we do disagree and we would like to commence with paragraph 3 under the heading, "The Scope of Coverage." New complexes, building permits issued on or after June 6, 1991, will be exempted for a period of five years from the rental of the first unit in the complex.

While a landlord must advise a prospective tenant of this ruling, are tenants made to accept and understand that a $500-per-month rental fee upon admission could be increased to $1,000 or $1,500 by the end of the five-year moratorium? We fail to understand why a landlord could not be made to be up front with original rental fees. If he requires $1,000 per month to show his margin of profit, he should not rent for a lesser amount. This would preclude instances whereby tenants of complexes would not have to vacate a run-down complex to be enticed into a new one at the same monthly rent, only to be forced to move after the first year when they could not afford the increase.

Under "Applications to Increase Maximum Rent Above Guidelines," as shown at the top of page 2, there is allowance of an increase of 3% above guideline in any one year. If extraordinary operating costs are incurred due to increases in municipal taxes, hydro, water or heating, this statement is justifiable. However, if a 3% increase is allowed for capital expenditures when preventive maintenance would have precluded such an expense, we fail to understand why tenants should be required to finance such costs. We also feel that landlords should be required to pay for all repairs and updating of their own complexes.

It would be nice if all home owners could reduce their taxes by the amounts spent on repairs or upkeep on their homes, or at least let someone else pay for their repairs. In the complex where we reside in Burlington, our landlord has applied for a 48% increase in rents from tenants to pay a bill of $2 million for work which should have been done over the 20-year period of this building's existence. He was finally forced by inspection to make some renovations. Should we be made to pay for this?

Furthermore, along the same 3% guideline as contained under capital expenditures, which we object to, a statement reads, "Landlords may apply in limited circumstances to increase maximum rents because of capital expenditures which are substantially completed." We would like to suggest that while an application could be allowed before completion, it certainly should not be effective until such time as the work has been completed and approved by a qualified inspector as retained by the director of rent control or other government agency. We have in the past heard many stories where increases have been permitted by inspectors when landlords have shown good intent by having purchased the required materials for the work but the repairs have not taken place until some months later.

Physical integrity of the complex or unit: If a complex has not been attended to or preventive maintenance has been non-existent for enough years to be required by a building inspector to be updated, why should tenants be required to assume the costs? The same provisions should apply to health, safety and environmental standards and the maintenance of plumbing, heating, electrical, etc.

We agree consent of tenant should not necessarily be required; however, we do believe it warrants a qualified inspection be made before allowance of any increase.

1500

In order to control all aspects of not only capital expenditures, repairs, public utility costs, rental fees, dates of inspections, etc, a properly set up computer file should be established in the office of the director of rent control. This would show life-years of buildings, dates of repairs and extent of same, increases in public utility costs from year to year, dates of inspections and inspectors' names, dates appliances replaced and percentages of increases allowed each year, plus any other pertinent information missed here. This information should be made available for viewing by tenants, if requested, and should also be available to prospective buyers of rental complexes up for sale.

Paragraph 7 under "Capital Expenditures" states that amounts allowed for capital expenditures in an order which exceed the overall cap of 3% above guidelines may be carried forward for one year for large buildings, seven or more units.

Paragraph 8 allows a landlord to make a new application in the subsequent year rather than accept the carry-forward provision, which would amount to less when compounding percentages. If excessive capital expenditures occur in the initial costs, they should be carried forward if tenants are to be required to pay owners' costs.

Applications to reduce the rent: If a tenant is allowed to apply for a rent reduction based on decreases in operating costs of municipal taxes, hydro, water or heating, how are they to police this? Will it be made available by the director of rent control? Will it be filed with rent review?

Maintenance: The proposed legislation continues to provide for provincial capacity to set minimum maintenance standards for residential accommodation and to determine if the provincial or municipal standards are not met or enforced. How is this to be policed? In the complex in which we reside, which was erected on marsh lands some 20 years ago, there has always been water seepage in the two underground parking areas. It has taken 20 years for an inspection to require that maintenance work be done in the interest of safety to tenants. Will regular inspections be made? If so, with what regularity? Will tenants be made aware of pending work orders in order to keep abreast of unwarranted rent increases for lack of landlord compliance to rules? These should be available to tenants or tenants' associations.

Finally, rent registry: The rent registry system is good for what it is worth. However, we suggest, as before, that it be incorporated with all aspects of costs incurred, dates of repairs, increases, etc, in a computer file. Thank you very much for your time.

Mr Tilson: I listened to your comments, and I guess my immediate reaction is the general criticism that Ontario has become the most heavily taxed jurisdiction in North America. The deficit issued by this government has come

nder tremendous criticism from all members of the public n how it is affecting our own individual pocketbook.

There is no question that there are major problems in he housing industry, and some of the solutions that you ave put forward—you have listed inspectors, and obvi-usly there will have to be an increase of inspectors to ccommodate some of the things that you are saying. You ave talked about the computer file, and of course the eople to man all that and to feed all that and to control all hat. You have talked about the registry system, of course, vhich is what the government is proposing, and I can ssure you that is going to be an unbelievable new group f bureaucrats.

Can the taxpayer of Ontario afford what this government s recommending and what you appear to be recommending?

Mr Maycock: Really, I do not have any specifics as far s the costs that are involved, but if we have a rent registry ystem, I think this has to come about, whereas a building n the past has not had to register any repairs that were one, the life expectancy of appliances, this sort of thing. I hink it all has to be incorporated. Somewhere along the ine it has to be tied in. I know it will instil extra costs on he government, but it has to be done.

Mr Tilson: I am sure that when this monster is fin-shed, the monster that this government has created, and ne number of bureaucrats who are going to have to be ired, even you will be shocked, just shocked.

Mr Abel: Where's your crystal ball?

Mr Mammoliti: I appreciate your coming down here oday, sir. It is nice to know that some people appreciate his particular forum, especially after I read Ms Poole's ress release earlier today. It is reassuring to know that ome people appreciate our being here.

I would just like to ask you, sir, as a resident in On-ario, and understanding that perhaps this bill is not perfect nd we have to look at some items, do you believe this overnment is going in the right direction when we talk bout fairness?

Mr Maycock: Absolutely.

Mr Mammoliti: You do.

Mr Maycock: No question whatsoever about it.

Ms Poole: George, notwithstanding your constant at-acks, I am going to be nice to you anyway.

Mr Mammoliti: You are always nice, Dianne.

Ms Poole: On to our witness, whose time I guess I am vasting. In a number of places you have referred to in-pections having to take place. Is it your suggestion that he province completely take over the enforcement of the ylaws and the work orders and the minimum standards nd that it provide inspectors?

Mr Maycock: Not necessarily, but the province could ork with municipalities to make sure that inspection re-orts were submitted. It only takes one clerk to tie all this n with various municipal agencies, if they could do this.

Ms Poole: Your tenants' association is in the city of Hamilton, is it?

Mr Maycock: It is in Burlington.

Ms Poole: Do you have a problem with the enforcement of work orders and bylaws?

Mr Maycock: Not really, except there was no streamlined enforcement. In other words, we have had water seepage in our building, a building of 188 units. There has been water seepage because it was built on marshy ground 20 years ago. Now, where have the inspectors been during the 20 years? It was not until last year that they were directed that they had to repair this, because the whole building might have come down. So it was not until last year that anything was done. Perhaps inspectors were in there 15 years ago or 10 years ago and said, "You'd better get that done," But they never did. Nothing was ever done.

So someone has to go in, some inspection has to be made even by a municipal office, passed on to a provincial office, and the provincial office must be able to send them a notice and say, "You have X number of days or months to get this work done," and if they do not do it, then they will have to pay a fine.

1510

DUNDURN COMMUNITY LEGAL SERVICES

The Chair: The next presenter is Dundurn Community Legal Services. We would ask the presenters to identify themselves for the Hansard record. We have 15 minutes that has been set aside for your presentation and you can withhold some time for questions and answers.

Ms Karenn: It is a pleasure to have the opportunity to speak to you today on behalf of Dundurn Community Legal Services. With me are Ms Denise Giroux, who is from the McQuesten Legal and Community Services, and Mr Jim Meston, who is a tenant who has kindly agreed to speak with me. The 15 minutes will be divided between Mr Meston and myself.

My name is Morghynn Karenn. I am a staff lawyer at Dundurn, and unfortunately I am the fill-in person today because the real expert who knows exactly what she wanted to say is not here. I am delivering her submissions. I am not able to answer the questions, so I have a backup person, Ms Giroux, who has kindly consented to answer your questions. I will make some submissions and Mr Meston will make some submissions. Ms Giroux will answer the questions for me, but Mr Meston has not succeeded in conning her into answering his questions, so he will answer his own, I think.

Ms Poole: Now the time is up, right?

Mr Abel: Are we all clear?

Ms Karenn: Dundurn Community Legal Services is a legal clinic in central Hamilton. We service clients from the downtown core of the city and the west end of Hamilton. The majority of our clients are tenants in six-unit buildings or less, though we do have clients from low- and high-rise buildings. The clinic has direct involvement in the housing concerns of the community and the clients, and has been an active player thus far in housing matters in the city.

Many of our clients are people upon whom the system has impacted negatively to date. While we are looking forward to the discontinuance of some of the problems arising from the Residential Rent Regulation Act, we are

concerned that tenants' needs and concerns may not be fully addressed in Bill 121.

The first of the concerns that I have been asked to mention relates to the rent registry system, which I have reviewed and find in part III, sections 94 to 106. At this time we are seeing an increasing number of tenants from under-four-unit buildings. The housing policy, we believe, in this region envisions increasing the density of the present housing stock, and in many instances we feel that this will involve conversions of single-family homes into two or three residential units.

We had originally hoped that the proposed bill would provide for registration of rents for the three-unit and the under-three-unit complexes so that all tenants would be guaranteed protection from abuse. In our experience, these complexes are quite susceptible to abuse, with landlords charging illegal rents.

Failing to provide for the registration of all types of complexes, we feel, withholds the benefits of rent review from those tenants. While the bill makes allowance for such registration in certain circumstances, the onus is on the tenant to initiate the process. In subsection 96(3), in my humble reading of it, not being the expert—I have to find the section—I notice that the tenant "may" request the registrar to so register. I think, in my submission, that is putting an unfair onus on the tenant. In addition, it would seem that in subsection 96(3), the registrar "may require a landlord," etc. The discretionary section in there is what is worrisome. There do not seem to be any guidelines as to how that discretion is supposed to be exercised.

With respect to this situation, particularly in the accommodations near McMaster University, I think I can safely say we have a continuing problem. Rental accommodations are at a premium there and many of the landlords in the area may be taking advantage of the gap in registration. Large houses are being divided into three-unit complexes and tremendous amounts of rent are being demanded of young students sharing accommodation, so that one large house is producing four times the rent that it would produce anywhere else in the city. The students, because they are from out of town sometimes, or their parents are not available to assist them with things, are ending up paying incredible rents, and a lot of them are having problems surrounding this. This may be something that could be looked at and allowed for in this bill.

The registry system can be extremely viable and workable. We are suggesting that more proactive procedures be written in, such as contacting the tenants rather than the tenants having to contact the system, and tenants receiving notice from the system as to what is involved with it, as opposed to leaving it on the tenants to do that.

The second area of concern that I have been asked to mention lies in sections 69 to 75 and that is the area of providing for the pre-hearing conference. Those sections provide for something of an expansion of the scope of the pre-hearing conference prior to the hearing. We feel those provisions may only lengthen the overall structure of the application process and further convolute the process.

The sections that deal with the pre-hearing conference seem to be numerous and somewhat ambiguous. Section 73 allows the rent officer to make a preliminary order, again at his or her discretion, but does not indicate what those preliminary orders should address or how the discussion should be exercised. The section further precludes the officer from making an order clarifying the issues. While this procedure may safeguard the parties, we feel it may simply complicate the whole process.

We suggest the preliminary hearing might continue as an option to the parties but that its format be limited to the type of format that presently exists, to simply narrow the issues, deal with the preliminary procedures, as in the pre-hearing conference, to an appeal right now under the Residential Rent Regulation Act. Overall, simply, the process should be shortened and simplified as much as possible. One of the primary concerns that tenants expressed to us with the Residential Rent Regulations Act was the length of time expended in application processes.

At Dundurn, we are very pleased to have the opportunity to have some input with respect to this new legislation. We hope Bill 121 will not be the final product and that this government will weigh the concerns of the tenants against what we perceive to be the growing pressure being exerted by the landlords. We urge the committee to consider these suggestions in its deliberations.

If there are questions, my friend will be pleased to answer them.

Interjection.

Ms Karenn: Perhaps Mr Meston then would speak first and then Ms Giroux can help us both.

Mr Meston: I am a long-term tenant of a low-rise building in central Hamilton. There are 63 units in our building and most of the tenants are members of a tenants' association which has been in existence for over five years. While I am not the official representative of that tenants' association, my experiences and views are shared by many other tenants in our building.

I am appreciative of this opportunity to make known my views on the proposed legislation regarding rent control, since the amount of rent we tenants pay and the difficulties we have experienced in the past with regard to keeping increases to a minimum are naturally of paramount concern to all of us. Our experiences to date have been frustrating and discouraging. We look forward to more positive results from this proposed legislation.

Unfortunately, however, I am discouraged to see that the bill allows landlords to apply for a rent increase for capital expenditures for work completed between January 1, 1990, and June 6, 1991. The hiatus of Bill 4 was a welcome relief to us tenants, a sort of small payback for the continual increases we have endured. This section allowing landlords to retrieve part of any costs made during what was originally presented as a two-year moratorium is disappointing, to say the least.

I have lived in my apartment unit for five years. In the past five years we have had continual rent increases of over 41%. My rent in October 1986 was $368.16 and is now $519.10. To allow my landlord the opportunity of using a period that was promised as free from above-the-guideline

increases is regressive. I request this committee to restore to this bill what was originally secured by Bill 4.

1520

I am also concerned with the procedures suggested for repayment to the tenant of illegal rents. Uninformed tenants are susceptible to unscrupulous behaviour by landlords. Basically, overcharging illegal rents is stealing from the tenants. The landlord should not be provided with the benefit of making periodic payments to tenants he has knowingly overcharged. A lump sum payment is the tenant's right of first recourse. Subsection 30(9) providing for a second application by the tenant for the lump sum payment is only delaying what should be the tenant's immediate relief. I would prefer to see subsection (8) completely omitted and subsection (9) continued, with a replacement clause that the tenant can automatically withhold rent until the amount provided for in the order is satisfied.

In comparing experiences with other tenants in my building, I have discovered that a number of them have received orders for payments of large sums. In one case, a tenant received an order for over $1,500. The tenant was an older person who was unaware of any recourse he might have and as a result has not received any payment or deduction in rent for three years, since the order was made. The landlord has been happy, naturally, to let this situation continue. This would have been a perfect situation where interest should have accrued for the benefit of the tenant. The section in Bill 121 stipulating that interest must be paid on the amount owing to be paid to the tenant is a welcome provision.

We hope this committee will take into consideration the points raised by the tenants in this area. We the tenants look forward to more input into decision-making in general and housing issues in particular.

Ms Poole: Thank you for your presentation. You have raised a couple of points which I would like to discuss with you. The first was subsection 96(3), which relates to the rent registry. You made the very valid point that this is quite discretionary and it does not really tell you under what circumstances a unit would be registered if there were one, two or three units involved. I asked this question of the ministry and the answer given to me was that in a circumstance such as a landlord who had a history of charging illegal rents, if the tenant applied, that would be a consideration. But I think you have raised a very valuable point, which is that it should be spelling it out much more carefully, either here, preferably, or in the regulations if necessary. Thank you for bringing that to our attention.

Mr Tilson: On the subject of the rent registry—and I have raised this question in the hearings before, without an adequate answer—municipalities all across this province seem to overlook the illegal basement apartment or the illegal unit. There is obviously a housing problem in many of these municipalities and that is one of the reasons why they overlook it. The difficulty as I see it—and I would like your comments on this—with the registration of these types of units is that inadvertently a tenant may insist that the unit be registered and thereby force the municipality to take action, again inadvertently, to kick him out. Do you see any problem in that type of philosophy with respect to registering all units?

Ms Giroux: The crackdown on illegal units is happening at a rapid rate in Hamilton-Wentworth region and it is a concern. Tenants should not have to face the consequences of eviction because the unit is being shut down when they are trying to enforce their rights. That is a possible consequence of that kind of registration. I think the province could do more, and certainly the municipalities have to take the responsibility to ensure that a range of affordable housing is available in their communities. I think the province could tighten up its policies and requirements of municipalities in that regard, particularly loosening the standards to some extent by allowing illegal units which meet health and safety standards but which may not meet the zoning requirements. I think there could be changes made at that level, which both levels of government, provincial and municipal, should be looking at.

Mr Morrow: Thank you for such a fine presentation. I have sent some people to Dundurn legal clinic and had some very good comments about it.

Ms Poole made a comment earlier in the day that we have lost affordable housing in Hamilton-Wentworth due to the cancellation of the Red Hill Creek Expressway. Is that a fact?

Ms Giroux: The province probably has the statistics to back that better than we. However, I do have some understanding regarding the fallout around the Red Hill Creek Expressway's cancellation and I believe that some of the reasons housing developers may have pulled out may have related more directly to the cost of purchasing land or the purchase price of a contract, for instance, rather than the actual cancellation of the Red Hill Creek Expressway itself. So I do not believe that is a fact, not put that simply, in any event.

The Chair: Thank you for your presentation this afternoon. Our 15 minutes have expired.

WILLIAM EISAN

The Chair: I think we have a substitute for the next presenter, Laurie Ann Marriott, from the same tenants' association.

Mr Eisan: Yes, that is right.

The Chair: Please have a seat, sir. If you would just identify yourself for the record, you can go ahead and make your presentation.

Mr Eisan: Yes. I apologize for her absence. She moved away, and possibly something came up at the last moment. I had been speaking to her a few days ago.

I am Bill Eisan. I am a tenant of 468 Ottawa Street North. That is the new Centre Square apartments. I would like to speak on behalf of maintenance.

It is important that over a period of years landlords' associations have shown blatant disregard for the safety and wellbeing of tenants and tenants' associations who occupy and represent the various apartment complexes throughout Ontario. The probable advice in legal matters that has been afforded by one of their lawyers, who is also chairman of the landlords' association, shows little, if any,

respect for the office he held, the law he represented or the court he officiated in. Under these circumstances, what form of justice can the tenants expect to receive from the hearings and appeals that they are forced to proceed with in an attempt to receive justice, protection or compensation?

A number of these tenants are senior citizens who rely on old age security, Canada pension or some meagre savings that they sparingly accumulated over their working years. Some do not even receive CPP or any form of pension at all, so I ask you to take into consideration the financial handicap that is experienced by some tenants throughout the province and the complex I represent and how much they rely on the justice and decisions that are determined through hearings and appeals. I submit that the proceedings that are deemed necessary for the tenants to exist with some form of security and peace in their lives do not adequately meet these objectives.

1530

As a provincially licensed tradesman in the construction and maintenance industry, I feel that the building inspections are not being carried out thoroughly or diligently enough in many cases and not by the proper authority. Municipal standards should be administered by that authority and provincial standards by the proper local provincial authority. In many cases the inspections should be conducted with the aid of building blueprints pertaining to the inspection, such as building or structural prints, electrical or plumbing prints or piping. For instance, in some cases distribution panels are located in locker rooms and the conditions of these locations are deplorable—no ready access and so forth. In some cases electrical room locations are being used as storage rooms.

I realize that our various inspection departments profess to have a heavy workload, but that is not the answer. In order to achieve more thorough inspections or follow-up inspections that are needed in most cases, perhaps the Ministry of Housing would consider procuring some of the various retired tradespersons, as they are familiar with the various trades and building regulations.

It is very easy to determine during these inspections the type of maintenance that is being performed in the buildings, in most cases by non-certified tradesmen who try to make repairs that they are not certified for or have the knowledge to perform. This leads to dangerous and in some cases disastrous results for the safety and wellbeing of the buildings and occupants. Perhaps one of the most necessary ongoing inspections is from the health department, as these inspections pertain to rats, mice, cockroaches and in many cases filth and improper garbage disposal conditions, all of which are very detrimental to the health and safety of all concerned.

The obvious response in trying to correct and alleviate these conditions is enforcement. One way to accomplish this is by inspections with immediate forfeiture of pay or penalizing, as is done in the armed forces, in the cases of unsatisfactory results. The disregard of these conditions leaves a lot to be desired and shows little regard for the occupants and their safety. I have concern that Bill 121 does not seem to address these areas adequately.

Mr Duignan: Do you have detailed recommendations you would like us to see re Bill 121 to clear up some of those areas where you have concerns?

Mr Eisan: I have some actual experience. I would just relate to you one thing as to inspections. The old saying is, "It's hard to get an engineer out of the office to go down to actually see the work that he's designing." That is the problem, I believe, with a lot of inspections, because an inspector goes down to do a job on the building but he knows nothing about the building. He has nothing to go by. He reports to the manager and then is taken on a grand tour and he is called up by, we will say, a tenants' association. He is just shown what they want him to see and this is one of the problems.

Other problems would be in the electrical department for a lot of these buildings. A lot of the wiring and panelling was adequate at one time, but as you probably know yourselves, the wiring, the insulation, has long deteriorated into a very, very precarious condition and the panels are outdated. This is what happens to people in these apartments and this is where you have very dangerous conditions. This is existing in probably about as high as 60% to 70% in the city.

I know you say, "Well, we have our retired men in our various unions and locals and things like that," and these men are up on these kind of things and a lot of them do not like sitting back on their haunches for the rest of their years. I would imagine they would not mind going to do inspection jobs like this. However, I just ask the ministry that because I know a lot of our inspection departments claim their workload is tremendous.

Ms Harrington: I just wanted to briefly comment on the situation. The Ministry of Housing has to work with or light some fires under or encourage the municipalities with regard to the inspection process. That is something we have to make sure works properly. The whole emphasis in this bill on enforcement of maintenance is something that is going to be tough to do and we have to work out the details of that very carefully to make sure that it does work correctly.

I did not gather at the beginning where your building is.

Mr Eisan: It is on 468 Ottawa Street.

Ms Harrington: Downtown?

Mr Eisan: In the east end of Hamilton.

Ms Harrington: And what kind of rent increases have you had in the last few years?

Mr Eisan: They have been asking for 33% and we are in the appeals right now to bring it down by 10%.

Ms Harrington: Did Bill 4 stop that increase?

Mr Eisan: No. We have put an appeal for that.

Mr Sola: You stated you wanted inspections and then you also stated that a lot of the inferior standards or a deterioration of the building was due more to an upgrading of standards rather than neglect of the landlord, if I understood you correctly. I wonder if you could elaborate on that. You were saying the standards today are different from when the buildings were built. I wonder if you would

elaborate on how your inspections would be able to facilitate upgrading.

Mr Eisan: The distribution panels or, as you know them, the power panels, are in various apartments and in various locations throughout the building; breakers that would be deteriorated and would not stand the overload. The wiring used in those days met the standards, but is deteriorated by now because the insulation covering it has deteriorated and the only thing that is holding it, shall I say, in safe condition is that it is behind walls. That is one of the main things.

Another main item is that the laws have changed in recent years. One time, you could wire a complex and you could put plugs and lights on the same circuit, which you do not any more. This brings it under another load because you would have a lighting load on your wiring circuit.

For instance, the kitchen: One time, you could have your lighting and your plug circuits on the same one. You could have two or three appliances plugged in as well as lights. And on that one circuit, there may be lights to the rest of the house. Therefore, you have an overload for the deterioration of the wire that is in that building. That is a hazardous condition.

NIAGARA REGION LANDLORD ASSOCIATION

The Vice-Chair: The next presentation will be from George S. Cottage, chairman of the Niagara Region Landlord Association. You have been here for a little bit, so you have seen the way that the committee operates. You have 15 minutes to make your presentation. If you wish to reserve some time for questions and answers with the committee, that comes out of the 15 minutes. You can introduce yourself and go right ahead.

Mr Cottage: I simply ask for one moment because it is a simple paragraph that I am reading on behalf of the Niagara Region Landlord Association.

We cannot make a submission to this panel because we do not wish to negotiate the loss of our buildings. We await the phasing out of rent controls and a move towards a shelter allowance as the only logical answer to housing problems.

That is the end of my statement.

The Vice-Chair: All right. The members may have some questions, if you are willing to entertain those.

Mr Cottage: I am really not here to answer questions. We have taken a position on this.

The Vice-Chair: Thank you. I think the next presentation is not here and she is not scheduled until 4 o'clock, so we will take a short recess. The committee will reconvene at 4 o'clock.

The committee recessed at 1540.

1552

The Vice-Chair: Order. Apparently the last presenter has cancelled; therefore the committee is adjourned until tomorrow morning in London at 9 o'clock.

The committee adjourned at 1552.

CONTENTS

Tuesday 20 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1335
Subcommittee report G-1335
Hamilton and District Apartment Association G-1336
Geoff Glass G-1340
851 Queenston Road Tenants Association G-1343
McQuesten Legal and Community Services G-1344
Metropolitan Hamilton Real Estate Board G-1347
Hamilton Mountain Village Residents Society Inc G-1349
John Towler G-1351
90 Duke Street Tenants' Association G-1353
Smar Holdings Ltd G-1356
Housing Help Centre G-1358
Italo Gallace G-1361
Queensbury Court Tenants Association G-1363
Dundurn Community Legal Services G-1365
William Eisan G-1367
Niagara Region Landlord Association G-1369
Adjournment G-1369

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Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 21 août 1991

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

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Table des matières

La table des matières des séances rapportées dans c numéro se trouve à l'arrière de ce fascicule, ainsi qu'ur liste des membres du comité et des autres députés aya participé.

Il existe un index cumulatif des numéros précédents. L renseignements qu'il contient sont à votre disposition p téléphone auprès des employés de l'index du Journal d débats au (416) 325-7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 21 August 1991

The committee met at 0901 in the Sheraton Armouries Hotel, London.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

MCI PROPERTIES INC

The Vice-Chair: This morning our first presentation will be from MCI Properties Inc, Ray McNally, president. You have been allocated 15 minutes by the committee. It is necessary for the Chairman to keep very strict control over the time today. We have a great number of presentations, so 15 minutes will be exactly what you get. If you wish to reserve some of your 15 minutes for discussion of your brief with the committee, that is always appreciated. You may begin by identifying yourself and your company.

Mr McNally: Thank you, Mr Chair, and thank you to the members of the committee. My name is Ray McNally. I am the president of MCI Properties. I own and operate a 25-year-old, 115-unit apartment building in London. I have owned it for over six years. I have been told countless times by tradespeople, tenants and guests that this old building is the cleanest and best-maintained apartment building in the city. Some of my tenants have been there since the building was first occupied in 1966. My staff is the best there is.

I appreciate the opportunity to make a presentation before you today. Although I am a small landlord, I have taken the time to make this presentation to the government with the hope of responsible consideration. In preparation for this presentation, I have been hopeful as to the outcome, but I have been unsure what to say when so much needs to be said.

I would like to illustrate to you what kind of building, tenants and landlord my circumstances encompass. A few months ago we celebrated the 25th anniversary of the construction of our building. We invited all the tenants, a representative of the company that built the building, some tradespeople who had helped restore the building and the local TV and newspaper media. We had a poolside barbecue. Two of our oldest tenants had been honoured as king and queen for the day. They held everyone's attention as they described the building when it was new 25 years ago. Although we cooked dinner, many of the residents brought salads, appetizers and desserts.

We honoured our other long-term tenants with gift certificates at a local restaurant and provided flowers for each of the ladies. We took pictures throughout the day and posted them for all to see. We also displayed a series of articles and photos of the early days and of our renovation days. Many residents had forgotten how much work had been done to the building and what it looked like before the renovations. It was quite refreshing to hear all the positive comments. Many residents told us that even though they were considering moving out to a more modern building prior to the renovations, and in spite of a 25% rent review order—and we offered a 10% discount to all existing residents—they ultimately decided to stay. We did not lose one tenant to so-called economic eviction because of the order. In fact, instead of trucks moving tenants out, we had trucks almost every day moving furniture in.

Today, our residents enjoy the benefits of a fine old building with good neighbours and a great support staff. Our building superintendent frequently drives residents to their shopping—on her days off, at that—and has made trips as far away as Orillia to drive elderly residents to important family events, such as funerals. We have several residents who spend a great deal of volunteered time working around the building, repairing screens, vacuuming the pool and cleaning the halls, just to help everyone out. Our staff and helping-hand residents are well fed with the cookies and other baked goods that are continuously sent to us from other residents.

Although I still have more to cover in my written presentation, I would like to take a few minutes of my allotted time to circulate some mounted photographs for your review. This is pertinent to what I have to say later. Please feel free to ask questions about this material. In light of the time frames, I think I have about three minutes to do this. If I can just start this one page at a time and work it around, have a look at it briefly. This is the celebration of the 25th anniversary of our building with some indication as to where a fair amount of money went in restoration of our old building. As I say, I would be pleased to answer any questions during this time.

Mr Tilson: Mr Chair, I think he is asking whether there are any questions. It would seem to me more appropriate that he finish his presentation.

The Vice-Chair: I think you should continue through your presentation and we will take the questions at the end.

Mr McNally: All right. I am sure you have already heard from other home providers and landlords about how they cannot make ends meet under the new Rent Control Act. The reality and understanding of income and expenses speak for themselves. I am going to talk about the concept as simply as I can. The rest of my plea will be for empathy and understanding.

The single most important thing a landlord can do for a tenant is to provide shelter. Although this is a simplistic approach to an important and complex situation, we must not lose sight of that purpose. The new Rent Control Act,

as it stands, is grossly unfair, short-sighted and one-sided. I will provide a few illustrations.

The act applies the same financial restrictions on newer buildings as it does for older buildings. This is important. The guideline amount is much too low, especially for the older, larger buildings. If the new Rent Control Act were enforced for 1991, then the guideline amount would have been 4.6%. Since 2% of this figure has been arbitrarily deducted for capital costs, that then leaves an allowable increase of 2.6% in 1991 to cover increases in operating costs. Let's not fool ourselves into thinking that either a landlord or the provincial government would not be ecstatic to be able to meet an operating budget increase of only 2.6%. The following operating cost increases—that is, 1991 over 1990—are a reality for my building and most buildings like it in Ontario.

Gas went up 10.7%; hydro up 14.4%; water up 9%; municipal taxes up 13%; supplies up 24%; repairs and maintenance up 67%; wages up 5.4%; mortgages up 39.4%. That is the same principal amount, just with a new interest rate. Utilities and taxes are uncontrollable and will, in all likelihood, continue to climb far faster than a guideline amount. Supplies and repairs and maintenance are somewhat controllable and are frequently influenced by the landlord's ability to pay and by market pressures. London's vacancy rate is officially 4.1%. Many of us know it is much higher than that.

It is interesting to note that rent control restricts the amount of money left over from the first four items to pay for upkeep, while market pressures dictate that the landlord be prudent, through good maintenance, in order to keep the tenants and fill the vacancies. The 2% of the guideline amount set aside for capital expenditures is very onerous on older buildings. I might add, if you have homes of your own, how could you operate your building under these circumstances, your own home?

0910

After paying the bills previously mentioned, then there is 2%, allowed only once a year without an application above the guideline amount, going to cover the cost of the usual capital expenditures. Note the following capital expenditures and their related costs on a percentage of income basis: a roof replacement would represent 11.2%; parking garage restoration 126.5%; boiler replacement 9.5%; balcony and brick repairs 21.1%; appliance replacement 18.2%; riser replacement—essential plumbing infrastructure—10.3%; and window replacement 11.5%. Some of these items can be done on a partial basis to spread the cost over several years; others have to be done all at once. However, this is just a sample of the reality facing owners of older buildings. The new fire, building and health codes are going to place even greater strains on capital dollars. Trying to get by on 2% per year is both impractical and mathematically impossible. Things just pile up and get worse.

The only outlet for building owners operating under rent controls is to apply for an increase greater than the guideline amount. This can be expensive for the landlord, and therefore the tenant, because of legal costs, etc, and can severely harm landlord-tenant relations. This avenue of resolve typically perpetuates itself for years and becomes more expensive and more annoying. The philosophy of applications for rent increases aside, the Rent Control Act prohibits reasonable recovery of costs because of its 3% cap and one-year carry-forward conditions on capital expenditures. Building owners will be unable to cover even non-capital operating cost increases with the full guideline amount, 4.6%, used in the earlier example. As a result, any and all anticipated capital spending will have to be done so as not to generate an allowance of more than 10% over two years for large buildings and will generate only 60 cents of income for every dollar required to service a mortgage. Who would borrow money under those circumstances? Who would lend money under those circumstances?

The next issue I would like to address is inadequate maintenance and maintenance enforcement. There appears to be a tremendous potential for tenant abuse with the new maintenance rules. Most landlords in our industry try very hard to keep our customers—our tenants—happy. However, some tenants just love to hate their landlord. Ill feelings have developed long before the current relationship. This is a relationship I am sure many politicians can identify with as they try to please their constituents. Under the new Rent Control Act a tenant will be able to file nuisance complaints with local authorities about things like cracked refrigerator crisper drawers which the tenant could damage intentionally and which ultimately have the ability to prevent legitimate rent increases necessary to carry the building. Unwarranted complaints like this may or may not result in a rent freeze. Valuable time and money that could be spent on managing the building for the benefit of all the tenants could well be lost.

The last issue of significant concern to me is real estate values. I left a good-paying job years ago and decided to change from part-time property owner/manager to full-time. With that job went a good income and a good benefits package, including an excellent pension plan. The idea was to hold on long enough so that sooner or later a small yearly profit could be realized and my equity position would increase gradually to ensure a self-directed retirement fund. I have yet to receive one penny of income from this investment which has consumed my time and energies over six years and has jeopardized my family home and savings. This legislation not only eliminates the possibility of earning a yearly income for many hardworking landlords but also strips our retirement savings plans.

Finally, I would like you to reflect on what kind of building our residents—that means the ones in the pictures I have been sending around—would be living in today if the new Rent Control Act were in place just before the renovations. We could not have made our major expenditures, such as balcony restoration, which could become a safety hazard and in fact was; roof replacement—we had too many leaks, too many patches; boiler repairs—we needed a dependable heat supply in winter; brick and concrete repairs—again a safety hazard, and riser replacement which entails leaky pipes within the walls and too little water pressure.

As a philosophical point here, a 4.6% or a 2.6% operating increase, depending on how you look at it, allowance with the double-digit cost increases and a 3% or 5% per year capital expenditure cap would not provide tenants a decent place to live.

Mr Tilson: It really is a wonderful display you have given to us this morning of showing the relationship with your clients and the maintenance you have performed and the work you have done on your buildings. There is no question that it is regrettable that it probably will not happen again for a number of years, and the relationship with your tenants may be destroyed for many years to come because of this bill.

I guess the question I have is the same question I asked the last time I was in London of people who came to this committee. My view was that many of the housing problems that we have in this province are emphasized mainly in the city of Toronto. The types of problems that occur around the province just are not the same. We were told at that time that this was the case, that the problems in London are not the same as the problems in Toronto. Can you comment on that, as to whether that position has changed?

Mr McNally: Certainly not. We have a very high vacancy rate. By and large we have a very close relationship between landlord and tenant. We do not have a high degree of tenant problems or landlord problems. As we all know, there are bad landlords and there are bad tenants. This legislation is designed to reduce the effect of the bad landlords, I am sure, but I agree, it is a Toronto-area problem. We have very few problems we have to solve in London.

Ms Harrington: First of all I want to say to you that I met with our new minister about a week ago and she said her priority was to ensure the health and safety of our between 20- and-30-year-old buildings, so you are one of our priorities. You fit into that. So we will be very carefully looking at the situation. We know, from months ago, all the different systems that have to be replaced at the this age of building.

At the bottom of page 3 you make a statement: "It's expensive for the landlord and the tenant because of legal costs, etc. This avenue to resolve typically perpetuates itself for years and becomes more expensive and annoying." That is the pass-through costs if that is what you are talking about here. I am asking you, what would you suggest then? Would you suggest a building reserve fund, the buildup of capital over many years held with that building in order to do these large replacement of things after 20 years?

Mr McNally: I foresee a reserve fund, yes, whether legislated or just common sense but definitely a reserve fund taken out of cash flow, but that is impractical. Where are you going to get a reserve fund? So failing that, borrow the money and hope to have the increased debt load serviced by increased rents. That is the way I did it.

The Vice-Chair: I apologize, Mr McNally, but we are on a very tight time frame. So thank you very much for your presentation.

0920

TWIN ELM ESTATES

The Vice-Chair: The next presentation will be from Twin Elm Estates, Jim Brothers. As you know, we are on a very tight time frame, so you have 15 minutes for your presentation.

Mr Brothers: Right. I am Jim Brothers. I am with Twin Elm Estates. It is difficult to put the comments of our complex in a nice, capsulated form in 15 minutes. The whole problem is so complex with our type of development, which has never really been recognized and has only been put in as somewhat of an afterthought. I will ask this question to the standing committee: What information do you have and input do you want to give to the government on this bill as it relates to land-lease communities?

This piece of legislation is totally unworkable and unsatisfactory to both landlords and tenants in this province. This piece of legislation had absolutely no input or representation from either landlords or tenants.

You are questioning the statement. Well, I am talking about landlords and tenants of vacant land. These are not tenants in the ordinary sense but are home owners. Because of this legislation and the previous legislation, they are being denied certain rights and privileges other home owners in this province have. For example, you have denied the people the right to pay their own taxes. At present these home owners have to pay to the landlords and the landlords then pay to the municipality. Again, it is very unsuitable for ourselves and unsatisfactory to the tenants. It is treating them like second-class citizens.

In the summer of 1989 I was approached by Ivy France, chair of the interministerial liaison committee for mobile home parks and land-lease communities, to speak to her committee. I arranged with three other parks and had a meeting that lasted the whole day back in the summer of 1990. We explored many of the problems with her and the committee and we felt we were working towards a workable solution and arrangement. A lot of the tenants' concerns she brought to the meeting were our concerns as well, and we agreed with her concerns.

This legislation proposes to stop landlords from profiting from flips and increases in financing costs. Let me submit to this committee that mobile home parks do not get flipped. Most parks are in the second and third generation of ownership and any financing that is placed on the properties is extremely difficult to obtain.

Second, the lenders rate these properties at a higher interest rate than a conventional single-family home. Regarding the five-year interest rate from CMHC which the previous legislation talked about, because they are lending on vacant land, CMHC is unwilling to advance or unwilling to insure mortgages of mobile home parks and 25-year financing is not available. So when people who know nothing about land-lease communities start imposing rules and regulations without first understanding the problems that we have to live with and arbitrarily imposing solutions that do not fit, this is very wrong.

For example, in 1987 we realized our income was not sufficient to support the maintenance expenses. We had a

1987 income of $230,000, which was approximately $115 a month per lot. We had expenses of $363,000 or $183 a month, which gave us an operating loss of $140,000, or we are losing approximately $70 per month per rental unit. We were paying people to live here in their homes.

We are not providing any form of shelter, any form of accommodation. We are providing vacant land for people to place their homes on. The legislation was supposed to protect living accommodations and not vacant land.

Rent review rendered a decision of 8.4%, an increase we appealed to the hearings board. They gave us an increase of 12.32%. That percentage on $115 is only $14 a month, which gave us an average lot rental of $129, still not even to a break-even position.

So the costs we experienced on vacant land in land-lease communities are not recognized by rent review. Our 38 dusk-to-dawn night lights were disallowed by rent review, our office staff wages were disallowed, our telephone was disallowed, three sewage pumping electrical charges were disallowed, the workers' compensation levies were disallowed, and $50,000 of our mortgage payments was disallowed because it could not fit within the nice square box of 25-year amortization at current interest rates.

Is this a fair and equitable system? I question that. This was all under the so-called previous and more generous rent regulation act. Bill 121 does not speak to the issue and the problems we experience. How are they going to impose a two-tiered annual percentage increase to landlords of land-lease communities? To quote Mr Cooke in a statement to the Legislature on June 6, on page 6 of his presentation, "We will calculate two guidelines each year—one for large buildings and another for small buildings."

Well, where is the guideline for land-lease communities? The guideline for small buildings having six units or less will be higher. Do we get to have it higher because our costs are higher? We have the responsibility of a municipality to supply all the services and no vehicle to increase them.

We have over a mile and a half of paved asphalt roads to fix, repair and maintain and replace with no chance to recover any of these costs. We have six full-time employees and no allowance for maintenance cost wages in Bill 121. We have no way to recoup the employer health tax that was imposed on us. Our hydro costs increased 17% over last year to this and hydro is talking about another 44% increase. Is this a fair and equitable system?

This piece of legislation punishes landlords who have been fair to the tenants in the past. We have artificially suppressed low rents, with no vehicle whatsoever other than a small increase on a low base rent. One hundred per cent of nothing is still nothing and that is what exactly is happening in land-lease communities.

On the other hand, in an apartment building that has rents of $600, $800 or $1,000 a month, a guideline increase of 5% would give landlords another $40 a month. In our case, at $70 a month, the base of some of our rents in 1987, it would give us a whopping increase of $3.50. It probably costs us more to ask for the increase than what we receive.

I recently contacted my local MPP, Irene Mathyssen, to no avail. I contacted her office eight times, left messages of my concerns about Bill 121 and difficulties that we are experiencing. Finally, we had a visit from her assistant, Pat Nunn. Pat Nunn sat in front of my wife and one of our other employees to tell us our park was far too well maintained over the government standards, that we would have to reduce our standards down to the minimum level in order to survive, because if we did not do that the annual increase is going to be so low that it would force us economically to do that. She told us that our tenants would have to realize they would have to wait a time to get a water line repaired, a sewer line unplugged or a pothole filled and snow removed from the roadway. They cannot demand instant service any more.

"You will have to get rid of all your snow removal equipment and contract it out to a local person just to plow a path when needed." She advised me that the farmers had to leave the farms to supplement their income to keep their farms, and landlords were going to have to do the same. In most cases landlords of apartment buildings do not live on site, but in almost all cases landlords of mobile home parks or land-lease communities live on site because they cannot afford to pay a reasonable wage to somebody to help them out, and if they did, that would be disallowed.

Further in Mr Cooke's statement, in the middle of page 7, the third paragraph: "Ontario tenants will have the best protection in Canada." Does that mean the landlords of this province will have no protection? Does this further mean that landlords' rights have been completely taken away as guaranteed?

One landlord challenged this legislation, the former Residential Rent Regulation Act, in the court decision of Cartwright v Jutasi. The definition of rental unit was never intended to include vacant land, so what did this government do? They kept issuing decisions on mobile home parks, changed the definition in Bill 4 to capture sites for mobile homes and made that section, and that section only, retroactive to January 1, 1987.

In the fourth paragraph of the next page of Mr Cooke's presentation: "Rents will be allowed to rise above the guideline for the following reasons: significant increases in municipal taxes"—because landlords of mobile home parks pay so little municipal taxes where the tenants pick up the majority, we were never to qualify for an increase—"and the costs of heating,"—we have no heating for vacant land—"hydro and water." We have no hydro for vacant land since the residents heat their own homes and we only supply the vacant land. Water is supplied in most cases by the park operators and is an allowable increase for expenses in our water system only if you have municipal rate increases.

0930

The fifth and final reason for an increase is capital expenditure. "Under the new system, an increase for major capital repairs will be allowed only if they are for the following: To maintain the structural soundness of the building"—since mobile home parks do not have any building, we cannot qualify—"to meet health, safety and environmental standards"—this is a question mark

whether we can even apply, and what health and safety standards are required for vacant land?—"to maintain plumbing, heating, mechanical, electrical, ventilation and air-conditioning systems"—again, we have no plumbing, no heating, no mechanical, no electrical, no ventilation, no air conditioning systems on vacant land. The fourth reason is "to provide access for people with disabilities, or to increase energy conservation." We rent only vacant land and probably would not be able to quality for access because it is all vacant, level land. As for energy conservation, they already disallowed our night lighting, so we could not be more efficient.

Further, Mr Cooke's paragraph on page 9: "This means tenants will no longer be required to finance luxury renovations such as new marble lobbies like they had under the old rent review system." Well, there are no marble lobbies in mobile home parks. There are no luxury renovations. There is only the basic capital required such as road replacement, water line replacement, sewer replacement, lighting; but then again, these items will not qualify.

Under the previous legislation, landlords were supposed to be allowed to break even plus 2%. This was another lie. We did not even come close to breaking even under the previous legislation. We are not even allowed to recover any of our losses because we did not meet the regulations for a typical building.

Another issue that the legislation does not speak to and is totally unworkable is the fact that the annual increase that deals with typical operating expenses of a building does not deal with the unique nature of mobile home or land-lease communities.

Further, it has no component in dealing with the age of the complex. As we heard earlier in the previous presentation, a building that is two years old will be a lot easier to maintain than a building that is 25 or 50 years old. But again, do we get an allowance for vacant land? I doubt it.

Because of the majority of landlords, land-lease communities have been very fair to the residents over the years. This legislation traps them in an artificially low rent for ever. The reduced annual guideline is questionable. How will this be applied to mobile home parks? There is no recovery for higher maintenance, higher wages, higher electrical. What about the insurance rate increases? Can we get reimbursed the extra cost, no longer grounds for an increase at all?

You know, this certainly sounds like a fair and simple piece of legislation. We were promised to be treated fairly in the outgoing Residential Rent Regulation Act and the coming in of this new bill. Now it appears that we can only get a maximum of 3% if we can qualify and jump through all the hoops. Well, chalk it up to another broken promise.

With landlords who are having difficulties now, this new legislation will put the increased burden on them. Failure to have money is a landlord's problem, and if he does not maintain, he gets a maintenance work order against him. If he does not comply with the work order, he cannot get the statutory increase, and then finally the municipality will have to take steps to take the building back. The municipality cannot sell it, so they keep it and run it. You know, I do not think buildings administered by a municipality are under rent control. Maybe this is a secret plan or a policy to take away more.

It is a vicious circle of lose, lose, lose—lose for the government without any taxes or income tax to support the system from landlords, lose for the tenant of depressed and lowered maintenance standards and lose for the landlord in every way.

With the regulations not yet produced for the proposed annual control index, or the capital expenditure rules formalized, we have to comment on unknown regulations and how they apply to our business. So you have an unworkable piece of legislation based on some rules that still have not come out and that landlords or tenants have not yet had an opportunity to review.

The Vice-Chair: You have less than one minute.

Mr Brothers: Okay, I will speed it up here. This new bill takes away the landlord's right to justify an increase for chronically depressed rents. Because we were fair in the past, we have no way of ever getting our rents up. This is wrong and unfair. This bill will force landlords to be unpaid custodians in an aging rental housing stock and certainly will not make Ontario a very attractive place to work, live, or for anyone to invest.

I guess this is already evidenced by the downrating of the Ontario government's borrowing power, the highest unemployment rate in years and the most people on welfare. It sounds a good time to increase and further impose unfair and unjust rules on landlords, lenders and tradespeople of this province.

We should take care of the people who cannot afford to pay the rent by a subsidy program. Let the landlords' rents go to a market rent and help the people who need a subsidy, but not people who are there in the buildings who have oodles of income.

The Vice-Chair: We appreciate your presentation. Unfortunately, there is no time for questions. I am sure some of the members may have some opportunity to speak with you informally. Thank you.

Mr Abel: This issue will certainly be discussed in the House.

Interjections.

Mr Tilson: Mr Chair, what is going on here? Are we going to have a debate?

The Vice-Chair: Certainly we are not going to have a debate.

Mr Tilson: I would probably have a few words too about the comments made by—

The Vice-Chair: I would like to tell the people who are here that this committee is an extention of the Legislature and it is not possible for any intervention from the people in the committee room other than the members of the committee.

Mr Brothers: Since I have to return to my property to look after it, I will not have any time later to deal with this. I would certainly take a few minutes and answer any questions.

The Vice-Chair: Mr Brothers, I understand that, but we have to move on to the next presentation.

Mr Brothers: Fine, it sounds like a good listening system.

TENANTS PROTECTIVE ASSOCIATION

The Vice-Chair: The next presentation will be made from the Tenants Protective Association of London, Mr Bill Armstrong, president.

Mr Armstrong: Good morning. I will keep my comments brief. I have read over this proposed legislation and I highly endorse it. I find little fault in it. I highly support it. I realize that the regulations are not available yet for us to—

Interjection: With this noise in the background, it is quite difficult to hear.

The Vice-Chair: If people wish to have conversations, would they take them to the hall, please? I am sorry, Mr Armstrong.

Mr Armstrong: Again, I have read over this legislation and I find little fault in it and I highly support it. There are a few areas of concern that I have, minor areas of concern such as contingency fees for agents who act on behalf of tenants and also the interest that is given to tenants where they are found to have been overcharged on rents. I would like to address those two areas to begin with.

The last government set contingency fees for agents who act on behalf of the tenants at 10%. Again, that was without any consultation with agents. I think that perhaps before the regulations are set down, there should be some consultation with agents so that we can arrive at a reasonable percentage for those agents who do charge contingency fees.

The other area I am concerned with is the interest given to tenants where they are found to have been overcharged on rents. Again, I think perhaps it should be more clearly illustrated as to the amount of interest that is given. Apparently there has been some issue in the courts as to whether interest should be given from the day the tenant is found to have started to be overcharged or from the day the claim is submitted. So I would like to see something in this legislation that illustrates exactly when it is to occur and when it is to start.

I do not have any other comments. I am more interested if there are any questions that I could answer.

The Vice-Chair: I am certain the members will have some questions. Perhaps you could describe the organization you represent for the committee before we go to the government for questions.

Mr Armstrong: I am the agent for tenants and have been acting on behalf of tenants since 1984, both in front of the Residential Tenancy Commission and the prevailing legislation. I have represented approximately 2,000 or 3,000 rent review claims. I have also been involved with and I am also representing tenants to do with old-building reviews. Myself or staff have made presentations to a number of government committees in the past.

0940

Mr Winninger: Bill, I am aware of your work over the past six years or so and your success in recovering hundreds of thousands of dollars worth of unlawful ren increases from landlords through the tribunal system.

My question to you is a process or procedural one. You know that under the old system there was first of all a decision granted by rent review services which could be appealed to the board. Now there is a one-tier system under the proposed legislation whereby, unless either the landlord or tenant requests a hearing, the decision will be taken without a hearing under rent review services. I just wonder whether that system is one that you find appealing and if not, why?

Mr Armstrong: I find it more appealing than the present system. The only thing I might caution on is that obviously, I think, when claims are brought for overcharging on rent, many landlords will opt for the hearing process. If the government is not prepared for that sort of situation, where a large percentage are going to opt for the hearing process, we could end up in the situation where thousands of claims are going to be backlogged for literally years before they are heard. So I think a mechanism needs to be set in place or we should be prepared to deal with that eventuality right off the bat, that there could be quite a large number of hearings.

Mr Winninger: Some critics of the legislation are saying there should be a hearing unless one or both parties request that there not be a hearing. That would certainly cause an even greater backlog, would it not?

Mr Armstrong: Again, I see a situation where most tenants would prefer the administrative process and not to have a hearing, but I also see a potential problem where many landlords, once a claim is brought against them, will ask for a hearing. I am sure that when setting up this system they will probably be taking into consideration a ratio of so many being settled without hearings taking place to a percentage with hearings. I think it would be wise to keep in mind that a large number of them will probably go to hearing. That could create a backlog and problems.

Mr Winninger: The only other thing I wanted to ask is this: Under the Residential Rent Regulation Act, any party could request that there be a hearing by three commissioners rather than just one, and under the proposed legislation the hearing would be with one commissioner. Is that something you agree with?

Mr Armstrong: I see no problem with having one person versus three. Again, in the proposed legislation—on a question of law, of course—if there is a major problem with the decision of the one member administrator, then obviously the option is still open to appeal to the courts.

Ms Harrington: I wanted just to reinforce what Mr Winninger says, that the hearing process is something we are concerned about. In the legislation we have tried to make it so that decisions are not delayed for years, as has happened in the past, with many problems resulting from that. And yet the simpler you try to make it, the more fair you have to be concerned about making it as well. So we are looking at that.

Is the group you represent a tenants' organization?

Mr Armstrong: No, I am an agent for tenants, which is allowed for under the current legislation and the proposed legislation. Some might refer to us as paralegal, but again, I only work in the residential tenancy area, no other area. I am specialized.

Ms Harrington: You are not president of a tenants' organization?

Mr Armstrong: Association, no, not as such.

Ms Harrington: We have heard a comment that the problem of excessive rents and economic evictions is only a Toronto problem. Would you care to comment on that? How would you see it from your perspective in London?

Mr Armstrong: I can only look at the last act and how it functioned. Again, the way things were going, had things not changed, people were being economically evicted. It was a piece of legislation that was not working, and again, there were numerous examples of people getting 30% to 60% rent increases and they were in fact being economically evicted. They were moving because they could not afford the proposed rent increases. Obviously, with the new legislation, I do not think that is going to be a problem.

Ms Harrington: The problem, of course, is that tenants are telling us that 8% is over what they get per year. But you feel this is okay?

Mr Tilson: I guess the real point, sir, is that these people are saying they cannot afford any increases, and yet the government continues to allow increases to this particular group of people. It is a no-win situation for them. It is a question I have been asking different people who have been coming before the hearings. Is that a social problem as opposed to a housing problem, the people who cannot afford any increases?

Mr Armstrong: I think this proposed legislation allows for a reasonable increase, and the problem we have faced in the past is that—

Mr Tilson: But the people you are talking about cannot afford any increases. So there is no such thing as a reasonable increase.

Mr Armstrong: I do not remember speaking about a specific group of people. Again, I think I was talking an overview. I am sure there are people out there who cannot afford any increase at all. We all know that.

Mr Tilson: Of course.

Mr Armstrong: I do not think there is a piece of legislation that is going to address each and every group and solve every problem, but I think this piece of legislation is a far cry better than what we just dealt with and I think it is a step in the right direction.

Mr Tilson: Let me talk about the issue of bureaucracy, sir. You seem to be pleased with the system that is being put forward by Bill 121, generally speaking. But I would like you to comment about the quantum of bureaucrats that will be increased as a result of this legislation, with rent review, the whole computer system, the inspectors, the increase in property taxes as a result of property bylaw enforcement officers who are going to be required around this province. The bureaucracy provincially and the bureaucracy municipally as a result of this legislation will be simply devastating to the taxpayer. I would like you to comment on that.

Mr Armstrong: I understood that in fact there would be less bureaucrats once this legislation is in place and up and running.

Mr Tilson: Just you wait and see.

Mr Armstrong: I am hopeful that the government will keep its promise of less bureaucrats.

Mr Tilson: The issue of contingency fees that you refer to; that is the first time that has been raised. I would like you to elaborate more on your thoughts on that.

Mr Armstrong: Again, the last government never raised it either. It just basically—

Mr Tilson: I was not part of the last government.

Mr Armstrong: I realize that.

Mr Tilson: I am simply asking you to elaborate on your point, because it is a worthy point.

Mr Armstrong: Simply put, I think the last government set in—

Mr Mahoney: We are not discussing the last government. Let's talk about this legislation.

Mr Armstrong: Okay, the last legislation set contingency by regulation at 10%.

Mr Mahoney: Talk about this legislation.

Mr Abel: It is your mess.

Mr Armstrong: Again, I am not here today to comment on the precise percentage it should be set at, but I think—

Mr Tilson: Mr Chair, I am having trouble overhearing the battle between the Liberals and the NDP.

The Vice-Chair: So am I.

Mr Mahoney: It is not a battle.

Mr Tilson: This is an important point, which I would like to hear.

The Vice-Chair: I agree with you, Mr Tilson, and I would urge the members to control their tongues.

Mr Armstrong: I think the thing is that when the regulations are being formulated, perhaps there could be more consultation on that particular area with people who work in that area, rather than just a figure being set that people feel is appropriate.

Mr Tilson: What sort of amendment would you recommend to this legislation dealing with that subject, if any? Have you thought about that at all?

Mr Armstrong: No amendment. I am happy with it the way it is, except that when the time comes for development of the regulations, perhaps there could be more consultation between the Legislature, the people who put together the regulations and make the regulation decisions and the people who work in that area. In other words, you have a process taking place here specifically to address the issues of the landlords and the tenants, but again, there is a very small group of people out there who are affected by that particular area and I think there should be some input before that percentage is set.

0950

Mr Mahoney: I just wonder if you have any concern that the government did not live up to its promise to the people in its Agenda for People that was put forward. Do you accept this as a reasonable compromise, or do you think they have kind of walked away from what they said? You know what I am talking about, of course. I assume you are very familiar with NDP philosophy and policies and promises. I am talking about their "one increase based on inflation." They have simply not lived up to that. Does that concern you at all?

Mr Armstrong: Obviously, policies change, and again, as far as I am concerned, the policy that is being proposed here I can live with.

Mr Mahoney: But does it not concern you? That is what I am trying to get at.

Mr Armstrong: That was another alternative, setting a precise percentage. Again, that was an alternative. No, it does not concern me, because, quite simply—

Mr Mahoney: Thank you.

Mr Armstrong: If I might comment further, the last government, as far as I am concerned, did not live up to its promises either.

Mr Mahoney: Mr Chair, I do not want to be overly defensive, but this gentleman continually refers to the last government, and that is fine. I was not terribly enamoured with a lot of the aspects of that legislation. I am here talking about this legislation and this government. I think the election is over, sir, and your party won.

Mr Armstrong: Obviously.

Mr Mahoney: Act appropriately. Thanks, Mr Chair.

The Vice-Chair: Thank you, Mr Mahoney, and thank you, Mr Armstrong. The 15 minutes has expired.

1095 JALNA TENANTS ASSOCIATION INC

The Vice-Chair: The next presenter is 1095 Jalna Tenants Association. Good morning, sir. You have 15 minutes to make your presentation. If you would allot some of that time to the committee, that would be appreciated, but that is totally up to you. If you would introduce yourself for the purposes of Hansard, it would be appreciated.

Mr Rupple: I certainly hope so. I am Bert Rupple, president of 1095 Jalna Tenants Association Inc. I would like to thank the committee for being able to be here this morning.

We seem to have found another loophole that landlords are using to harass tenants, and one that was touched on earlier at a previous committee appearance, that has not been answered in Bill 121.

Key money should include the cost of money orders, certified cheques and other banking transactions, as well as repairs charged to the tenants as a result of normal wear and tear or damage to the landlord's property by those other than a tenant. An example of this is where a landlord or property management demands the payment of rent by cheque or money order and will not accept Canada's only legal tender, the Canadian dollar—in other words, cash transactions.

This is currently the policy of Highmark Properties of Toronto, which has recently assumed property formerly managed by Good Property Management in London. This company is currently demanding tenants pay rent by cheque or money order and would not accept cash until this association was willing to take them to court. Now the policy has changed slightly in the fact that the property manager will accept cash, but will not give a receipt for the same, and if one is needed at year's end or for whatever purpose, then it will cost the tenant $20.

Would you, Mr Chairman, give me cash without receiving a receipt? I doubt it. This is why this association has now accepted cash rent payments, giving the tenant a receipt for the same and turning the money over to our lawyer to keep in trust until the property management either comes to its senses or takes us to court.

When a particular landlord was threatened with legal action on this matter, he agreed to accept cash, but ordered his superintendents not to issue receipts for the rent. A receipt is required as proof of payment for rent rebates by the province at income tax time. Women on mother's allowance require a monthly receipt as proof of rent payment in order to receive their monthly allowances. Cancelled cheques are not acceptable as proof of payment by either Revenue Canada or the Ministry of Community and Social Services. When a tenant requires the receipts, he is forced to go to the landlord and pay $20 for these receipts. When the rent is paid by the tenant, he should receive this free of charge. They contend that $20 is not key money but an administrative fee and that they are entitled to such by the legislation. This practice is nothing more than blatant harassment.

On the question of damages by others to a tenant's rental unit, property managers are attempting and in many cases are getting away with making tenants pay for glass and screen damage from neighbourhood children's toys or throwing stones or whatever. The landlord contends that the tenant should carry insurance on such, but a check with the insurance companies indicates that tenant insurance does not cover such damage to the property of a landlord unless it is the neglect of the tenant, and rightly so.

It is these harassments, initiated by either senior management or overzealous property managers to gain brownie points with their superiors, for whatever reason, that mean tenants' associations must be on guard against such landlords and property managers in today's rental markets.

The best alternative to solve many of these problems would be to outlaw property management firms from managing properties unless they are sole owners of a complex. This would also lower rents by as much as 15% if the middlemen were to be taken from the picture. If I had a $3-million property in my possession, why would I allow a management firm to deplete a property by cutting corners, supposedly to make money, when I could do this myself? On the other hand, I would have 15% more to improve my investment and make a healthy profit. It is this 10% to 15% deficiency that is making landlords poor, not low rents.

In addition, property management treats tenants as chattels to show value of property, rather than tenants as customers who make them money by repeat sales of purchases of service, namely, rent. Members of Parliament from both houses here in London can attest to this first hand. They were asked to intervene to solve issues with a property management firm and received verbal abuse from the property management firm.

Since October of last year, landlords are currently denying tenants services provided in the past, with no recourse other than lengthy court battles about appliance repairs and other such things. We currently have a property manager in our complex who must sit up nights thinking of ways and means of getting the ire of tenants.

An example of this is a unit which is heavily moulded and smells very musty from a cracked, leaky basement in which the drywall, insulation and wood is badly deteriorated. More than one estimate has quoted a cost of $1,000 or more to repair. The property manager has come up with a solution that the repair can be made cosmetically for $600 and has ordered this route to be taken. The repairmen state that the condition will reappear in two to six months' time again or the next extremely heavy rainfall, and at a greater cost than the original $1000. In the meantime, the tenants have to put up with the initial tramping of repair people through their homes and look forward to further hassle when the repairmen have to return later.

With regard to maintenance standards as set out in Bill 121, there is ambiguity on what is the standard. Is it the standard of the building when it was built some 10 years or more ago, or is it the standard of building code today or the standard the building is itself in at the time the bill is enacted? Building inspectors contend it is the standard as set out when the building was built, and so no upgrading to current standards are necessary for improvements to bring the building up to today's building code. An example of this is roof, window and eavestroughing conditions, whether they exist or not to meet today's code. This then too brings the question of the problem of house wiring standards. Some properties using electric heat were built 10 years ago and wired with both aluminum and copper wire on the same circuit. This would not be acceptable today, but only needs to be corrected if a circuit is touched by an electrician. So you can understand the problem remains as to the maintenance and building code standards.

1000

In order for this new legislation to be as strong as the promises made by the current government prior to its election last fall, it must guard against further watering down of Bill 121. It is therefore expected that the elimination of the landlord pass-through for capital expenditures be disallowed and a capital reserve fund legislated on land owners, no matter the number of units, who are currently depleting the value of their properties by taking out capital while doing only light maintenance on buildings and only in emergency cases.

The money put aside for such capital projects would be no more than the current requirement of a non-profit organization of a rent-subsidized housing unit, a co-operative or tenant association-run venture, and can show that such a venture is profitable for a land owner who does not have to pay a 15% service fee to a management firm. There certainly is not a requirement for more than a once-a-year increase based on inflation. Of this, 2% or 3% of the rent should be set aside for capital expenditures.

I realize that I have covered a lot of ground here, but there are a lot more items to be covered yet. I have run out of time and must step aside in order that property managers can wail their woes about how hard done by they are. I reiterate that doing away with property management firms would allow land owners to do their own administering. They would make a lot of money and probably not show the losses they currently contend they have. Thank you.

The Vice-Chair: We have some time for questions from the official opposition.

Ms Poole: Thank you for your presentation today. I was looking at your comments at the beginning of your presentation when you talked about the difficulty in getting the landlord or his representative to accept anything but a cheque or money order. Would this not entail a problem from a business point of view? If a person is insistent on tendering cash, then that superintendent would be liable for the loss of that money. It is one thing if you misplace a cheque; it is very difficult for somebody else to cash it. But if a superintendent loses money, is that not a personal liability which it might be somewhat unreasonable to expect him or her to take on?

Mr Rupple: No. I have had superintendents tell me they have no problems with that. They have to take extra precautions and therefore do not lose the money. There are a lot of cheques that are lost and a lot of forms for eviction notices given out because of those cheques lost by landlords or superintendents.

Mr Tilson: The Progressive Conservatives, of course, have raised the concern that we do not know what a lot of the words mean in the act. We have been told that regulations will not be presented until after the bill has passed, which is very difficult, so we share the same concerns you have as to what much of the terminology means in the legislation.

I guess my question to you is specifically on the issue of reserve funds, which is not in the bill, but which you are advocating. Landlords are telling us they just do not have the money and that money just does not grow on trees. They think it would be preposterous for the taxpayer to pick up the issue of reserve funds. Tenants say they cannot raise the money for reserve funds. Most of the buildings in this province are 20 years or older and would take an astounding amount of money to pay for, whether it be concrete work or roofs, and that it is just physically impossible. Could you comment on that?

Mr Rupple: The effect of having the last month's rent, say, for 100 units at $600 each, is $60,000. At an invested rate of 10% or more there is $6,000 or more a year, and they are paying out only half of that. They have a good basis of a standard right there if that last month's rent were to be held in trust, as it should be, not used as capital or as an expenditure.

Ms Harrington: I also wanted to mention the reserve fund idea. That needs a lot of work to see how it could actually work. Of course the problem is that, without the reserve fund having a chance to build up over the years, it is very difficult at this point with the older buildings. What increases have you received in your buildings? But also, on the second page here you said that members of Parliament from both Houses received verbal abuse from the property management firm. I would like you to explain that.

Mr Rupple: Yes, we had a problem. We took it to the federal member, who happens to be the critic for Housing in Ottawa and the other two, the Minister of Education and David Winninger, a member of this committee. Both men and the woman have received abuse from a property management firm when they took issue on something that had come up that they were trying to get rectified, mainly this one on cash. I would have to have Mr Winninger here to confirm it, but he did receive some considerable abuse.

The Vice-Chair; Thank you, sir, for appearing.

MARSHALL RESOURCES (ONTARIO) LTD

The Vice-Chair: The next presentation will be from John Schnurr, representing Marshall Resources. Good morning. You have 15 minutes, which you can allocate as you wish.

Mr Schnurr: Good morning. My name is John Schnurr. I am with Marshall Resources. Marshall Resources is an agency which represents landlords and tenants in rent review matters and landlord-tenant disputes as they relate to the Landlord and Tenant Act. I am and have been involved in the last 15 years in administration of rental housing developments and actively pursuing my career as agent in that particular industry.

In February of this year, the Minister of Housing came forth with the green paper offering options with respect to the rental housing situation in Ontario. Along with this document came a plea to the people of the province to make input and assist in the design of a new, simple rent control system for all. Hearings such as this today were held across the province to hear the words of the people.

On March 11, 1991, I met with the minister, Mr Cooke, here in London and offered a fair, democratic means of dealing with the rent controls, which was met with the comment, "The tenants of this province will not negotiate." My submission at that time was subsequently filed on some shelf somewhere to gather dust. I received no response from the minister in that regard. I have contained in my presentation today, and in your blue folders, a copy of that particular proposal to the minister. Lo and behold, I am presented with a new document known as Bill 121 and asked once again to make submissions in response to this dictatorial work designed to exercise the entrepreneurial spirit out of those in the industry.

To put it simply, if this is the NDP's idea of a fair partnership, as it brought forth when it was elected, my reaction to the bill is that I would hate to see their idea of dictatorship. In a free society you furnish your own ladder and the government merely stands by to steady it as you climb. With this bill in Ontario today, the Clampetts at Queen's Park have yanked the ladder after we in the industry have climbed halfway up, broken the ladder into pieces and are currently attempting to beat us to death with it.

1010

Let's discuss for a moment the bill itself; more particularly, the extraordinary operating cost provisions contained in the legislation. Found under section 14, a very limited number of areas are considered for this type of cost. What happened to excessive vacancy? What happened to bad debt? What happened to legal fees to effect evictions in an overworked, backlogged court system? What about damages done by the irresponsible? These are not addressed by extraordinary operating costs. Also, what about financial hardship created by the unexpected? These are issues that must be addressed. The provisions contained in section 14 address very specific costs which are not under controls themselves. The provisions contained in Bill 51 addressed these concerns in a fair and responsible manner, unlike the proposed method of forced subsidy, with no restriction placed on the other sectors affecting the rental community.

Moving on to the so-called capital expense provisions of the legislation, this particular piece of the legislation warrants but a few words like "draconian, unrealistic, without thought" and perhaps "designed by the incompetent." How in God's name can you expect a building to be maintained to proper standards without allowing for replacement? With the introduction of rent controls in 1975, we have seen a significant reduction in maintenance standards across the province. There has been no real incentive to repair or replace. The next generation of landlords has come into the marketplace to deal with worn-out buildings. With this particular document, Bill 121, you have effectively removed any assurances of an inventory beyond this decade.

The Residential Rent Regulation Act dealt with capital expenditures in the only realistic way. If you spend money on your property, you may increase the rent to offset that investment. By taking away those provisions, you are telling the investors of this province to put their money into investment other than rental housing, like one that would perhaps show a return.

Because of the time constraints this committee has set out, I shall fast-forward from capital cost straight into sections 112 through 114 of Bill 121. This particular section gives us a true definition of a fair system in the eyes of any good comrade: the right to enter any place and seize anything that may lead to the conviction of someone contravening this act. What happened to freedom? Perhaps I missed the extension of the Russian invasion. Who the hell do you people think you are? It is our property. The adage, "You will be given a fair trial and then hung," comes to mind. Giving a civil servant the power to enter and seize is not, in my opinion, within your mandate. What about the return of what you have seized? There are no provisions contained in sections 112 through 114 for the return of what has been seized. The issuance of search warrants with nothing more than an affidavit, without the right to speak to it, is an open abuse of your authority. Even the thought of presenting this bill with that type of provision is

indicative of a serious abuse of power on the part of this government.

I will once again submit to you the proposal I submitted to Mr Cooke on March 11, 1991, and ask that you reconsider the direction of this legislation. Failure to do so will spell the end of investment by the private sector in a once great industry and a once great province.

Mr Tilson: Your anger and frustration, the types of remarks you are making towards the government, are a common element around this province. The people we are hearing from are almost unanimous.

If it is at all possible, I would like you to comment on a story that came out of the London Free Press this July about the demolition of a number of apartment buildings in the northern section of London. Is there any connection between this and the housing policies of this government with respect to what happened, I believe, at 301 St George Street?

Mr Schnurr: I am not familiar with that particular situation, but I can appreciate anyone wanting to demolish a building that is old and quite possibly worn out. The tenant community that can afford that particular type of accommodation seems to walk hand in hand with demolition on its part without the landlord's help at all. The buildings cannot be maintained if you do not have the dollars to do it, and there is no incentive to spend the money to fix them up.

Mr Tilson: According to the story from the London Free Press, that is exactly what happened. There was a need to repair the balconies and I think there were some problems with asbestos. With the bills that are being passed, they simply could not afford to renovate it, so they tore it down or are going to tear it down.

Mr Schnurr: I would be delighted—and I offered to the minister in the last round of hearings—to have someone from his office come into my office and review my files. I have pictures of apartments that have been totally demolished by tenants who, through the failure of the system in general, do not have enough money in their social assistance payments to pay the rent. Subsequently, they get frustrated, take it out on the property and on the landlord, and move on to something better.

Mr Tilson: Have you heard any rumblings in the landlord community at least that are similar to what happened in north London? I am thinking specifically of landlords who literally will not be able to make the capital improvements that are required to the building and will be precluded because of this legislation.

Mr Schnurr: Because of the area that Marshall Resources operates in, we have a client base of some 350 landlords, primarily small landlords. Out of those 350 landlords whom I deal with on a regular basis, it is my opinion that about 85% of them are unable to effect proper repairs to the property because of financial constraints. They cannot get a mortgage right now to do any work because the banks will not lend because of the legislation.

Mr Winninger: Mr Schnurr, we have crossed paths before. You have just referred to us as the Clampetts, the Beverley Hillbillies. If we are the Beverley Hillbillies, you must be Mr Drysdale, the banker, because I know you specialize in economic evictions for landlords. You are a landlords' agent, you go to court and you do evictions. Have you not seen over the past six years, since the Residential Rent Regulation Act came in, a lot of evictions due to tenants who just cannot pay these escalating rent increases?

Mr Schnurr: I have seen a number of evictions over the last six or seven years of people who do not have enough income, as a result of shortfalls in the social system, to pay the rent that is required to maintain a dwelling, yes.

Mr Winninger: You have seen rents go up, in some cases 20% a year, in some cases 30%, in some cases 50% a year, and you think it is fair that the landlord should have passed through speculative financial loss, economic loss, extraordinary operating loss as well as capital loss? How do you expect people on fixed incomes or whose income only goes up by the rate of inflation, say 5% a year, to pay these wildly escalating rents?

Mr Schnurr: In the first place, the problem is not with wildly escalating rents. The problem you are focusing on is with people who do not have adequate means to live in this society. The socialist who designs the social net had best address the source of the problem, not a result of the problem.

Mr Winninger: Is the schoolteacher who makes $50,000 a year and faces a 20% rent increase in one year not going to face the same problem as someone on $10,000 a year facing a 20% increase? People budget. What is a rent review order that increases the rent substantially going to do to that budget? It is going to force them to move, and that is what this government is trying to correct.

Mr Schnurr: If a schoolteacher making $50,000 a year cannot afford the average two-bedroom rent in the city of London, then perhaps he should go back to school and learn how to budget.

Mr Mahoney: You suggest that what this government is attempting to do is to get you or your clients to subsidize that person on a fixed income, rather than addressing the problem which it has identified and trying to come up with some solution. They are simply looking to the owners of the buildings to provide the subsidy, which in essence should be considered perhaps a social subsidy. Do you think they are simply trying to take over your clients' businesses?

1020

Mr Schnurr: In 1989, the Premier, prior to being elected, made his position very well known to the Federation of Metro Tenants' Association when he advised them that if elected, he would change private ownership to co-operative ownership, and he would do that with a very tough form of legislation, forcing the landlord community to submit to his demands. I guess he has got his wish.

Ms Poole: Thank you for your presentation. You did not really have time to go into the proposal that you attached, but one part that really intrigued me was the local bureaus which would not only have the ability to have a local rent registry and look after the maintenance aspect

but would also include the licensing of landlords. Could you perhaps elaborate on particularly the licensing of landlords and how that would work?

Mr Schnurr: My submission to the minister on March 11 suggested utilization of section 124 of the Landlord and Tenant Act, which allowed for the establishment of landlord and tenant advisory bureaus in each municipality. Contained in my submission was a recommendation that these bureaus be established and be made up of tenants and landlords of the community, perhaps representatives from tenants associations in various complexes.

The bureau would be headed by a representative from the province, to direct and see that the provisions of Bill 51, with proper amendments, were adhered to. The local bureau would then deal with issues on a local level, such as licensing of landlords. Contained in the submission was a licensing fee that, I believe, worked around 1.5% to 2% of gross revenue. Those funds would then finance the administration of the proposed systems. The bureau itself, digesting input from both landlords and tenants, could then make a decision as to whether or not the economics of the community warranted rent controls.

Currently we have a system that is designed to service the city of Toronto. We do not have a problem in Sarnia; we do not have a problem in London.

The Vice-Chair: Thank you, Mr Schnurr. Unfortunately the time has expired.

FEDERATION OF LONDON TENANTS ASSOCIATIONS

The Vice-Chair: The next presentation is from the Federation of London Tenants Associations, Leo Bouillon. You have 15 minutes to make your presentation. If you wish to reserve some of that time for questions and answers with the members, that would be appreciated.

Mr Bouillon: My name is Leo Bouillon. I am with the Federation of London Tenants Associations. As you will notice, I am not a typist or an English major, but the lady who was supposed to do the typing for me got ill, so please bear with me.

On June 6, I, along with thousands, listened to Mr Cooke deliver to the Legislature his speech on the introduction of the Rent Control Act, 1991. From the onset of the hearings, Susan Eagle had suggested one way of ensuring landlords be made more responsible for repairs would be to license them. This idea seemed more than reasonable to me.

When I was invited, along with others, to meet with Dave Cooke here in London, the licensing idea was mentioned, and I was told that although the idea was good it could not be made possible under this process as it was an issue that was part of the Landlord and Tenant Act.

To my surprise and great delight, on June 6, 1991, the stance the government had taken on the maintenance issue was an incredible breakthrough. Tenants could now have some sense of satisfaction in knowing that landlords would have to comply with their work orders, and the days of tenants living in disgrace because of terrible living conditions now would have a chance of getting back some sense of dignity and justice. Those few landlords who for years would not make those necessary repairs will now be forced to comply. What have these landlords done with the 15%, 30% and 45% rent increase dollars?

Mr Cooke also mentioned the government decided to get tough about maintenance. This statement is good and positive. In order that this government hard line be viable we ask that you follow through as promised, and that all levels of government and organized tenants groups work together, and that this same Bill 121 be applied immediately upon being made law. Only then will tenants feel this government does have a real concern about tenants.

This next issue I am about to discuss could have some serious implications should it not be made clear. My concern is about carry-forward, which states, "If the major repairs result in an increase that is greater than the guideline plus 3%, some of this can be carried forward into rent increases for the following year." Small buildings can carry forward for two years. However, no rent increase, even with an amount carried forward because of the cost of major repairs, can result in a rent increase which is greater than the guideline, plus 3%. This seems to be quite clear.

After making contact with the Metro Toronto federation, I was told that carry-forward, as it stands, would increase in years one and two; eg, let's assume the guideline is 5% and the landlord was able to have the 3% applied as well. The rent increase for this particular year would now be 8%. In the case of larger buildings, seven units or more, the increase for 1991 is 8%. For the next year, with carry-forward, the said 8% of 1991 would then translate to 16% in 1992. For smaller buildings, the carry-forward would be 16% in 1992, with another year of carry-forward, which would then make the increase for 1993 a total of 24%. This, ladies and gentlemen, is not acceptable.

In disbelief and amazement, I called the Ministry of Housing and spoke with Tom Parkin from Dave Cooke's office. I explained to Tom the discussion I had with Metro, and asked him to please clarify this problem. Tom proceeded to ask if I had received anything in writing, to which I replied, "No." After a few minutes, Tom got back to me and assured me that this was not possible.

I decided to investigate the matter further, and went back to the report that was presented by Mr Cooke on June 6, 1991. The first thing I had seen was a copy of the news release which reads, "This legislation will provide Ontario tenants with the best protection in Canada," and goes on further to say, "Tenants will never again have to fear the 15%, 20% and 50% rent increases of the past." In the speech itself, statements like, "At the heart of this legislation are measures intended to ensure that tenants are protected from high rent increases," "no more than 3% above the guideline in any one year," "the days of 15%, 20% and 50% increases are gone." These statements are evident throughout the speech.

Several days later, I received a package from Metro and noticed that what was mentioned in the telephone conversation about the carry-forward issue was in my hands, and reads as follows: "Tenants could receive, over three years, rent increases of 25% to 30% for buildings of under seven units, and 17% to 20% for buildings with seven

units and over. Each year, tenants pay an inflationary increase plus 3% to cover landlords' extra costs." Tenants of buildings with under seven units have a different annual guideline and different rules for extra increases, which allows their rents to go up faster.

I then went to Irene Mathyssen's constituency office and brought this matter up with Irene's staff, and asked if it would be possible to address a letter directly to the Minister of Housing for clarification. This was done on July 31, 1991.

On August 10, I received a call from Bill Wade in Ottawa, introducing himself as a representative of United Tenants of Ontario and mentioning he would be in london for our hearings. He asked if there was anything I needed in preparation for my presentation to this committee and I replied no, but I had a problem and asked if he could maybe help me and began to explain and asked if it were possible for him to get an answer before the London hearings.

On August 13 I faxed the information to Dan McIntyre in Ottawa, who had already made his presentation to the rent control committee and would be able to help resolve the issue. The next day I did get a reply from Dan as promised. Needless to say, Dan backed up Metro's reply. I was not pleased with the reply and remained somewhat confused. I then went back to Irene's constituency office on Friday, August 16, pointing out the reply from Dan McIntyre. Pat Nunn then proceeded to call Toronto to find if they had received our letter and hoped by day's end we would have some kind of reply, but to no avail.

1030

On Saturday afternoon I called Irene at her home and asked if she could possibly get me a reply before the London hearings. I am still not sure what is right. I have time and time again gone over the statements made by Dave Cooke and I had to stop and take inventory of the evidence at hand. Three of the largest tenants' organizations in Ontario are saying that carry-forward is a very real possibility. This is a very serious matter. If these rent increases are possible because of a flaw or misunderstanding, this matter needs your undivided immediate attention. If there is a loophole in this legislation to be had, those few irresponsible landlords will cash in on this matter, and the very people we have worked so hard to protect are again going to be faced with rent increases that will cripple them and their already depleted cash flow.

If this simple issue goes undetected, it definitely would be devastating for all tenants, myself included, who have been assured by people like Dave Cooke that the days of 15%, 20% and 50% rent increases are gone for ever. In closing, I would like to thank you for your time and consideration.

Ms Poole: On a point of order, Mr Chair: Since Mr Bouillon has asked a question and has attempted to ascertain an answer from the ministry, I would suggest the ministry might have a representative come forward right now with an explanation. You are welcome to use our time to do it.

The Vice-Chair: If you want to use Liberal time, that is fine.

Mr Mahoney: Why could the minister not explain it?

The Vice-Chair: Do we have consent for the ministry to explain that particular issue?

Ms Harrington: Sure.

The Vice-Chair: Okay, if someone from the ministry would come forward, introduce yourself.

Mr Irwin: Terry Irwin from the Ministry of Housing. The way the act is worded allows for a 3% increase above the guideline in any one year, period. There is a provision for carry-forward for capital only up to the 3% limit in the following year for larger buildings and up to two years for the smaller buildings, those six and under. Let's just quickly run through an example.Let's say the guideline is 4% in this year. An application for an above-guideline increase, above that amount, of 3% could be allowed, with a carry-forward into the next year, again up to 3%. In the case where the guideline is 4%, it would allow for 7% the first year, 3% on top of the guideline the second year and, for smaller buildings, the same case would apply in the third year.

Mr Bouillon: Excuse me. The reason I spent so much time on this is that it was brought to my attention that other organizations are seeing it in a different way. As I mentioned, if there is some way words can be changed, that is the reason I spent quite a bit of time on this, to make sure that this would be brought to whoever's attention and be cleared up some time.

Mr Winninger: I just want to clarify a point with you and see if your understanding is the same as mine. If the base rent is $500 right now and the landlord gets more than the guideline—let's say the landlord gets the full 3% and the guideline is 5%—then the rent would increase in year one by 8% of $500, or $40. So in year two the base rent is now $540. If the landlord feels he wants to pass through the costs the second year, in a large building, he goes to rent review and rent review says, "Fine, you can pass through another 3%," or they may have done it in the first year. Then it is 8% increase on the $540 new base rent. That is not like 16% or 24% that you have put in, as the Ottawa tenants association was telling you. It is just not true at all.

Mr Bouillon: As I mentioned, that was my point. I needed to make sure this was well understood by all and not just a few members.

Mr Winninger: But it is in the legislation.

Mr Bouillon: Yes I know, and that is why I have quoted so much of Mr Cooke's speech. Like I said, the reason I spent so much time is because of the wording. Someone has obviously misinterpreted it, as I mentioned.

Ms Poole: Just to follow up on that point, certainly the impression you had that it would be 8% the first year, 16% the second, then it would keep compounding, is not the way the legislation is worded, so I think that was just a misunderstanding on that particular part. With reference to the maintenance provisions, you have talked about and welcomed the fact that there is more emphasis on maintenance. I think many of us really liked the standards board in existence under Bill 51, but we felt it did not have enough power to implement its decisions. It was a good

idea but it did not go far enough. Would you like to see that standards board continued and strengthened, or are you happy with putting the maintenance in with rent review and, if there is a backlog, it may well get caught in that backlog?

Mr Bouillon: No, I would definitely like to see some changes made in that aspect. In order to ensure there is no backlog, if the government is on top of that, then everything should be fine.

Mr Tilson: The licensing issue you raised, sir, are you suggesting that system, which presumably would include enforcement—in other words, if someone is not complying with certain things, he would lose his licence? I assume that is what you are saying. Is this system to replace a maintenance standard municipally or provincially, or is this over and above that?

Mr Bouillon: The licensing issue, when it did come up, was something I think a lot of us maybe have thought of. As far as that was concerned, when the announcement was made I was quite satisfied the maintenance issue was well covered. I still believe that under the new system there is still going to be need for co-operation between municipal and provincial governments to make sure those rules are applied. They are really going to have to tighten up.

The Vice-Chair: Thank you, Mr Bouillon.

1040

SIFTON PROPERTIES LTD

The Vice-Chair: The next presentation will be made by Sifton Properties, Mr Barry Parker.

Mr Parker: My name is Barry Parker. I am a vice-president of Sifton Properties Ltd and I am responsible for its portfolio of company-owned and -managed residential rental properties of 4,000 units throughout southwestern Ontario. Sifton is headquartered here in London and has been active in the shelter industry for the past 60 years. We develop land, build and sell single-family homes and condominiums as well as develop and manage shopping centres, commercial properties and office buildings. In our company we strive for quality in the production and management of our real estate holdings. We believe that in the long term our success will lie in our ability to identify and satisfy our customers' needs by supplying products, space or accommodations that offer value for what we charge.

In our rental housing division, however, it has become increasingly difficult to balance our desire to supply quality rental housing to our customers with our need to obtain a reasonable return on our investment. We are now subject to the full impact of Ontario's rent control legislation on every single unit we own and manage. If we let ourselves be motivated solely by the rent review legislation in place we would not provide our customers with anything other than basic service. Quite frankly, we completely disagree with rent controls in Ontario and our company has responded by not constructing a single rental unit for our own portfolio since the inception of rent controls in 1975. Prior to that time, however, we were one of the most active builders in the London area, having built 2,700 units in the 1969-76 period which we still own and manage.

In preparing for my talk to you today I reviewed the notes I had prepared for the presentation before the Bill 4 committee which I made in January. At that time we were faced with a disastrous piece of legislation, but we at least had the assurance from the Housing minister that Bill 4 would be temporary and that some of our concerns would be redressed in the permanent legislation we are discussing today.

In the time allotted to me I cannot discuss Bill 121 on a clause-by-clause basis, but in a general sense I can tell you that Bill 121 offers no relief to the problems we outlined during our Bill 4 presentation. Bill 121 is well into the realm of a worst-case scenario for us not only with respect to the specifics of the bill but also, possibly more important, because of the underlying contempt this government has exhibited for those of us in the business of supplying rental housing to the residents of this province. While we are concerned about the legislation itself, we are even more concerned about what will follow in terms of regulations and the bias of the bureaucracy which would be administering this act.

We are very aware that the Ministry of Housing commissioned studies which clearly demonstrated that the returns for apartment buildings, even when taking into account any capital gains which may take place upon the sale of a building, were well below all other forms of real estate, below the stock market, in fact below the returns people could obtain by simply borrowing money from the government.

In spite of an overwhelming amount of evidence to the contrary, however, this government is legislating us as though we routinely enjoyed huge increases and flipped our buildings for large capital gains. This has not been the industry's experience and it certainly has not been the experience of Sifton Properties.

In the last year, as a result of the elimination of the financial and economic loss provisions in Bill 4, we have seen a reduction in the value of our buildings of between 25% and 40%. Bill 121 does nothing to address this confiscation of our capital but instead will further reduce value by reducing the basic statutory increases by the changing of the formula which produces the annual guideline. Furthermore, the reduced guideline will also have to fund items which were previously capital expenditures, such as appliances and carpeting. With the bottom line reduced or eliminated, value will be further eroded.

Our buildings are generally 15 to 23 years of age and although we have properly maintained them over the years, because of their age we are now facing the necessity of major renovations and replacements to ensure they will remain functional and attractive for the next 20 years. Certainly, as long as Bill 121 is in effect, that will be impossible.

Our company had earmarked $13 million to be spent on our properties after the Residential Rent Regulation Act of 1986 was passed. While that act was in place, we spent $2.5 million on capital expenditures and filed conditional applications for another $3.7 million, with plans to continue until the renovations of all our units had been completed. All

of these plans were postponed when Bill 4 was introduced, but will be cancelled if Bill 121 is passed. Please understand that this step will be taken with great reluctance, as we take pride in offering our product to our customers, but Bill 121 will give us no choice.

First of all, as stated earlier, the guideline increase has been reduced from the amount which is allowed under the current formula. In 1991, for example, in comparison to the present guideline formula, the amount available for paying operating expenses on minor capital will be reduced in our case by approximately $175,000 when Bill 121 is in place. Furthermore, the 3% cap on capital expenditures, after incurring a 2% penalty, will not allow us to recover our costs, nor will we be able to find a lender to provide funds for this work.

The only time I can envision filing a capital expenditure application is if we absolutely have to do some work, such as a roof replacement, and we may apply for an increase on the basis that half a loaf is better than none. However, if the roof in this example has to be replaced at the same time as we experience an extraordinary operating cost increase, we will just be out of luck because this bill assumes that we can predict when we have to do capital work and when extraordinary increases will take place so that the total increase remains no more than the 3% above guideline amount.

There are other sections of this bill about which we are very concerned. We have thousands of customers, and although we strive to satisfy every one of them, we cannot keep every single person happy at all times. Bill 121 will give every single tenant the opportunity to allege that maintenance standards have been reduced. As a result, depending on the nature of the allegation, all rent increases may be stayed until the issue is decided by the officers of the Ministry of Housing, whose decisions are not subject to any form of appeal. This type of uncertainty will make it impossible for us to make business decisions.

Even if Bill 121 provided a reasonable return for funding capital—and, as I stated, the 3% formula certainly does not—how will we be able to obtain financing when not only the increases for capital and guideline are in jeopardy but the base rents themselves are subject to rollbacks? I cannot understand how the government cannot see that this is extremely unfair, prejudicial and completely unworkable.

Of all the sections of Bill 121, probably the most offensive is the right that is going to be given to government officials to search any landlord's premises and seize records and inspect and photograph evidence as they see fit. Again, this section of the bill only serves to further convey the depth of hostility and misunderstanding which this government has created by its thoughtless, misguided and politically motivated approach to the problems of rental housing.

As stated earlier, I cannot deal with all the issues of Bill 121 in the time available. The Fair Rental Policy Organization of Ontario has already submitted a brief to this committee. We support the recommendations they have made. Given the specifics of our situation, however, with respect to the age of our stock of housing, we would like to emphasize the following recommendations.

Guideline increase: The reduction of the guideline, particularly in the context of the other section of Bill 121, is unfair and unworkable. The government promotes this bill by stating that it creates more funds for capital, when the exact opposite is the case. The formula itself will ensure that even less minor capital is performed as we are forced to divert more funds to simply meet increases in operating costs. At the very least, the existing guideline formula should be maintained, plus a 1% provision should be allowed for capital items which have been converted in this bill from capital to expenses.

Capital expenditures: Although we are prepared to continue with the capital expenditure program we had instituted under the Residential Rent Regulation Act, we simply cannot do so under the provisions of Bill 121. We will not have the funds, nor will we be able to borrow the funds. We recommend a system that permits binding preapproval of the work proposed by the landlord combined with phase-ins to a maximum of three years, with a maximum increase of 5% per year above guideline and a one-time 1% penalty from the guideline increase. Capital expenditure increases should be in addition to other increases for items such as extraordinary cost increases.

Rent rollbacks: I cannot recall that we have ever received a municipal work order on any of our company-owned properties—not one. Yet Bill 121 will give tenants the ability to eliminate rent increases not only for their own unit but for an entire complex. Bill 121 goes even further and allows ministry officials to roll back rents with no right of appeal on the finding of inadequate maintenance. I understood the maintenance standards board was dealing adequately with the small minority of landlords who required direct government intervention in order to pressure them to perform minimum levels of maintenance. Simply leave that board in place.

Right of appeal: Our experience with first-level Ministry of Housing officials has been, at best, mixed. There must be an appeal system to have a second look at errors of fact, errors in judgement and the inevitable biases which individual administrators may exhibit. It makes no sense to put millions of dollars of income into the control of one civil servant.

Search and seizure: Finally, the unprecedented rights of search and seizure given to the ministry officials is quite bewildering. Where is the evidence that these measures are necessary? Simply because we are in the business of supplying rental housing we are now subject to the sweeping powers usually reserved for the police when dealing with drug lords. We recommend that we be afforded the same basic rights and considerations as given to other businesses.

1050

Although we expect that very little will change in this legislation as a result of these hearings, we will in future years continue to do our utmost to properly maintain our buildings, in spite of the very negative message which is being conveyed to us. In the final analysis, however, we, along with all other people affected by Bill 121, will study it and we will be influenced to act in the manner in which the legislation encourages us to act. That is only natural. Unfortunately, this act does nothing to encourage anyone

to properly maintain their buildings and nurture a relationship with their customers based on excellence of service.

I expect Bill 121 will result in a more adversarial, time-wasting and ultimately destructive climate in which to operate our rental housing portfolio and, in the final analysis, will do nothing to help the needy in their quest for decent housing.

Ms Poole: When you were outlining the difficulties you had with the bill, you said one of the problematic features was that the lending institutions were not going to forward money to you when they could not have any assurance that you were going to have the revenues to carry the loan. Have you had personal experience with this type of situation where a financial institution is refusing to renew a mortgage or causing you difficulty?

Mr Parker: Yes, we have a client for whom we manage property who cannot renew his first mortgage.

Ms Poole: What are his options left?

Mr Parker: He is scrambling around trying to get some unusual financing, but he is in a bind. He does not have many options. He may have to sell the building.

Ms Poole: So maybe bankruptcy is his only option.

Mr Parker: Possibly.

Mr Turnbull: Just following on from that line of questioning, what is your estimate as to the reduction in the value of buildings as a result of Bill 4 and now this bill?

Mr Parker: That is hard to say. We do not sell our buildings. We are keepers. We built them and we have kept just about everything we have ever built, so we personally do not have experience.

Mr Turnbull: But this gentleman you were mentioning whom you managed the building for, he is scrambling. Is that as a result of a reduction in the equity value?

Mr Parker: We have someone else who sold a building. They had bought it three years ago. This building was not in London. It was a building about 14 or 15 years old with 330 units. They had bought in on the understanding that they were going to have financial loss phase-ins and they were going to have the ability to address the problems they had inherited with respect to capital expenditures and so forth. The building was at an age where the roof needed repairing, the parking deck and so forth. They ended up getting orders in the last four months from the municipality to fix up the parking deck and roof. They have lost their right to phase-ins for financial and economic loss. The building was running at a substantial loss without doing any capital expenditures and they had no choice. They sold the building and they lost in the millions of dollars on their investment as a result.

Mr Turnbull: The NDP of course would say they made a bad buy.

Ms Harrington: You certainly are to be commended that you do not have any municipal work orders against you. You sound like you are a very good manager. Of course, you are concerned with your relationship with your clients as well. I would just like to assure you, because I do not have enough time to talk with you in detail, that we are certainly concerned about the condition of the buildings. The second thing we are concerned about is the stability of tenure for your tenants, and I am sure you are as well. What are the increases that your tenants have had? Are you concerned about their security?

Mr Parker: We had increases in the maximum rent anywhere from 15% to 25% when we were doing our capital expenditures. It was our policy, purely voluntary, that we would not increase anybody's rent more than 15% in any given year. We voluntarily phased in our increases. We communicated with our tenants from day one. We had meetings before we even made our conditional application, so they knew what we were doing, why were doing it, how long it would take, how much it would cost and what the resulting rent increase would be. They typically had up to three years by the time the increases were actually ordered to order their affairs if they felt that the ultimate rents were something they could not handle.

Ms Harrington: Three years ahead of time?

Mr Parker: By the time you got your conditional order, then you did the work, got your final order and so forth, that was usually about three years.

The Vice-Chair: Thank you, Mr Parker. We appreciate your presentation. Unfortunately, the time has expired.

PARK TOWERS TENANTS ASSOCIATION

The Vice-Chair: The next presentation will be made by the Park Towers Tenants Association.

Mr O'Grady: My name is Gerry O'Grady. I am president of Park Towers Tenants Association. We have 193 units in our complex.

We have several concerns with the proposed legislation. As you are aware, I made a presentation at the Bill 4 hearings. We were then concerned, and are still concerned, with the notice that many landlords give to tenants with regard to rent increases. We note that as in the previous legislation, section 7 provides for a prescribed form and that is to be prescribed under the regulations. If we have a prescribed form, what we do not understand is why landlords are entitled or add different things to that form which are to the detriment, we think, of the tenant; namely, that they ask for a renewal of your tenancy agreement into a yearly tenancy.

They are protected under the provisions of the bill in that if the tenancy agreement is not renewed, then the tenant is automatically deemed to have accepted it as long as he did not turn it down. Also, a tenant is protected under the Landlord and Tenant Act in that his tenancy agreement is automatically renewed. We see no reason why this prescribed form is not to be followed.

We had a decision of the Rent Review Hearings Board two weeks ago. It said the form of a notice of rent increase is not relevant in the appeal. I thought all rent increases originated with a notice of rent increase, and if that is not pertinent, I do not know what is.

Our next concern is an increase above the guideline. We have had two increases above the guideline since the inception of the RRRA. One was at 20%, the other at 10%. We do not have the regulations under this act or the proposed

bill, but we presume they might be similar in that they will be amortized for capital expenditure over various periods of time, the life expectancy of the work done or of the thing bought. These then were incorporated into maximum rent and became subject to the statutory increase in each year, so that instead of getting 14.42% interest on their money on an annualized amount, they were getting an extra increase the next year of 4.5% or 5.4%. That is money in the bank to the landlord, and we think it is unjust.

We suggest that there be retroactive remedial legislation included in Bill 121 to provide that:

1100

A. Any allowance for capital expenditures made under any order under the RRRA is, and was, always to be considered as an item separate and apart from the statutory increase under that act and as a component part of maximum rent and not subject to either statutory increases or further increases granted pursuant to section 74 of that act;

B. All excess sums paid by a tenant to a landlord for capital expenditures above the amortized amount because of statutory increases or increases pursuant to the application under section 74 be repaid to the tenant, together with interest thereon, at the amortized rate of interest;

C. If the tenant cannot be located after a reasonable time, such sums, together with interest thereon as aforesaid, be paid by the landlord into a special account to be established under the act to be used for the financing for the construction of low-cost housing;

D. The rent registry to be maintained under sections 94 and 95 of the bill set out as separate components of maximum rent (1) the annualized allowance for capital expenditures broken down into their amortized periods; (2) the commencement date and expiry date of each amortized period; (3) the amount of basic rent which is subject to a guideline increase, and (4) the total maximum rent.

E. We would further suggest that the notice of rent increase also set out these items.

We have said this remedial legislation can be retroactive. We are of this opinion because the first rent control legislation in Ontario was made retroactive to July 29, 1975, that being the date on which then-Premier Bill Davis first mentioned in an election campaign speech that we might have rent control in Ontario. If we cannot go back, he set the stage for retroactivity.

Our next concern is that we should have a new heading in the act after section 21, "Automatic Reduction in Rent," that when a capitalized amount, an annualized amount, has expired, automatically there would be a reduction of rent for that item, which has now been paid. Why do we have to make an application? In fact, I do not see in the bill any place where we can make an application for it.

Our next submission is that under the application to reduce rent the provision be made for the tenant to obtain from the landlord the information necessary to base an application on the grounds set out in section 24. That is where his hydro rates have gone down, his taxes have gone down, etc. I do not know how else we are going to get it from the landlord.

Our next submission is, subsection 15(2) allows an allowance for a capital expenditure that is necessary for energy conservation. We agree with energy conservation. However, Ontario Hydro advertises, with rebates on the purchase of lamps and fixtures, incentives of up to 50% of conversion costs, plus expert advice. Then why should it be called a capital expenditure?

We submit that the act and the regulations should allow the minister—I guess I am wrong in using the word "minister" under the new bill—to make a determination whether the revenue from energy cost savings as a result of a retrofit would reduce the amount of the calculated amortized cost over the useful life of the capital expenditure.

The next one is that under the heading "Compliance with Standards" there is provision for inspection. We notice that mostly the compliance with standards is going to originate with an objection or a complaint by a tenant. But there is no provision in this section that I can see that either a tenant or tenants' representative can attend on the inspection of the property to see that everything was done as what was complained about.

Our next one is that under subsection 59(2), dealing with the request for a hearing, we just think that the time, 15 days to make up your mind, is a little quick when you have to go get copies of all the material from the offices and then look at them and come to a conclusion.

Our next concern is that you cannot interfere with organizing a tenants' association. It is really a question, because I have been asked it at two different appeals. "How many tenants have you, how many tenants belong to your organization, and are you organized?" I would like answers to those questions. What is necessary?

Our last and final one is, in section 124 they talk about complaints or knowingly misinforming the—I will say minister—under the old act. Where false information is concerned, who do you complain to and how do you start on an offence?

In the most recent one we had, the landlord applied for energy conservation. They got a one-third grant on the Ontario Hydro and also assistance on their lamps and that. They had claimed the full amount. They had gone to Ontario Hydro. We made a submission that this was wrong. That was deducted. But to me, that was knowingly. They had the invoice there. Why is that not knowingly? Yet nothing was done. We complained that that was an offence.

Also, on redoing, putting rugs in separate units, they file their separate invoices and they mark on the invoices the total amount, "Tenant contributed $500 towards this; tenant contributed $750," and it was a substantial amount in the total. Yet they had claimed the total of the billings. They had not deducted the amount which the tenants had paid towards the carpeting of the units.

Again, we thought those were offences. We mentioned them in our brief to the administrator. Nothing was done about it. That is our conclusion.

The Vice-Chair: Thank you. Mr Turnbull, for a minute.

Mr Turnbull: I am so fortunate.

Energy conservation: I am very keen on this. One of the problems that we see in introducing energy conservation

methods is that the way this bill is written, there is a capital cost. Let's say we are talking about replacing the windows where they will be more energy-efficient and the capital cost is larger than the amount you can recover from flowing it through. Not only would you lose money—so there is no incentive for the landlord to do that—but in addition to that, after the energy consumption goes down, the tenants can actually ask for a reduction in the rent because of lower costs. It seems to me that is a severe disincentive to the landlord to introduce energy conservation measures and it seems to be in conflict with what the Ministry of Energy wants to do. Could you comment on that?

Mr O'Grady: I only addressed retrofit in electric, I must confess. I had not thought of the windows. In our situation, we had just gone through it in the original hearing before the administrator. They were disallowed. The landlord was disallowed the whole amount. We lost it on the appeal and in fact they allowed them an extra interest rate.

Mr Winninger: Mr O'Grady, you have quite a bit of background in this area, I know, both in connection with the Park Towers Tenants Association and also as an ex-lawyer and teacher at the bar admission course in London. I am just wondering. You mention some of the difficulties you have had with recognition as an organized tenant association before the tribunal. I wonder if you were aware that this government has undertaken to provide some core funding for tenant advocacy.

Mr O'Grady: Yes, I am aware of that. But what I was asked at the first appeal hearing that we had and asked again at the recent one that we had within the last six weeks or two months was, "Are you organized?" I do not know whether they were looking for personal liability or otherwise, but anyway that was just a question that arose. You say you can organize a tenants' association, but you do not define what a tenants' association is.

1110

Ms Poole: With reference to your comments about costs no longer borne, they were very well presented and I do agree with that premise. However, I was quite concerned about your suggestion that they be made retroactive.

I have a number of reasons for this. First, I am strongly opposed to retroactivity in legislation on general principle; it should be prospective. Second, we have had a lot of landlords who have said Bill 121 will create financial difficulties, and then to compound this by going back in time may be the straw. Third, and perhaps most important, is the logistical nightmare of going with the rent registry back in time and trying to separate the components and have new decisions. I see that as creating an enormous backlog which might well break down the system. If you would like to make a comment on that, I would appreciate it.

Mr O'Grady: Yes, I would agree with you in the general principle, but to me, somebody made a mistake and I do not see why in our instance we had an increase of 20% that was retroactive to May 1, 1987, just about the first day that you could have had rent increases. Then the next year, whatever it was—we will say it was a 5% increase—and that was on top again of 14% interest that the landlord was getting on this capitalized amount, on the capital expenditures, and so he is getting another 5% on top. The next year he is getting another 4.5% or 5% on top. Then they applied for another increase and they got a 10% increase, so they get another 10% again on those items. That adds up, and if you do not think it hurts my pocket—I think the landlord's pocket is a lot deeper than mine.

The Vice-Chair: Thank you, Mr O'Grady. We appreciate your presentation this morning.

WATERLOO REGIONAL APARTMENT MANAGEMENT ASSOCIATION

The Vice-Chair: The next presentation will be made by the Waterloo Regional Apartment Management Association, Bob Eby. You have been allocated 15 minutes. Introduce yourself and then you may commence.

Mr Eby: My name is Robert Eby, and I am here today representing the Waterloo Regional Apartment Management Association. I am also here as a small landlord who pays the mortgage on a 15-unit apartment building in Kitchener.

Our concerns are the same concerns that your committee has heard about from Barry Parker at Sifton; Gary Griesdorf of Goldlist Property Mangement; Jonathan Krehm of O'Shanter Development Co Ltd; David Hurst, the historical building owner; Bert Reitter of Tandem Realty Administration Inc, and Allan Every of Highmark Properties. To go over the things that they have said again and again I do not think makes sense.

We sincerely believe there is a way to help tenants who require assistance. This bill does not help anyone who requires help. This bill is without a doubt the most damaging piece of legislation to the future rental accommodation of our children and grandchildren in the province of Ontario. In addition to all the things you heard and read about in these presentations, let me make a few comments about a few parts of the bill.

Section 39 says a landlord cannot collect increases in rent after the effective date of a rent penalty order. Section 42 says the registrar may apply to the chief rent officer for a rent penalty order if the landlord did not file information required under section 96, which deals with registering rents, section 99; which deals with change of registered rents, or section 100, which deals with the registrar wanting new or amended information.

Now let's look at an example that ties section 39 and 42 together. On January 31, 1992, a landlord gives all tenants a 90-day notice of rent increase effective May 1, 1992. The notice is for 8%: the guideline of 5% plus an extraordinary operating cost increase of 3%. On February 2 the landlord leaves the country until June 9, 1992, for whatever purposes. On February 15 the registrar asks for information under section 96. Because the landlord is not here, he does not answer the request. On March 15 the registrar asks the rent officer for a rent penalty order. On April 20 the rent officer grants the rent penalty order. On May 2 no tenants are required to pay the 8% increase in rent. On June 9 the landlord returns and sees the request for information. On June 10 the landlord complies with the

rent request. On June 11 the landlord asks that the rent penalty order be rescinded. On June 15 the rent penalty order is rescinded. On June 30 the landlord must now reissue the 90-day notice of rent increase for October 1.

The results: Ten apartments—we are saying 10 in the building—all rented at $600 per month, that received proper notification of an 8% increase, do not pay the increase of $48 for the next five months. The landlord loses $2,400 and the tenants keep the $240 each that belongs to the landlord and get a five-month extension of rent increase, all because the landlord had to leave the country. Your reply might be that it will never happen. Mine would be, how can we trust you after what you have already done to us?

Section 125 is neatly tucked away in the back of the act and allows the Lieutenant Governor in Council to make regulations. The regulations can take the act and change the outcome in so many unknown ways that it would be more honest and fair to table those regulations before the bill is passed so that we know what the regulations say.

Look at paragraphs 125(1)3, 4, 5, 6, 7, 9, 11 and 12, just to point out a few. Depending on how the regulation is worded, it could render an application worthless or give a landlord very little, even less than your 3% for his investment on capital expenditures and your watered-down version of the guideline.

Speaking of the guideline, when you look at the 5.4% guideline now in effect and compare it to the proposed 4.6% guideline, we find that you are attempting to stick it to the landlords again. How can 2.6% be equal to inflation? After you take away the 2% for capital and the 1% for profit, 2.6% is what is left over, but you forgot to tell everybody that you are not going to do that, right? How do you suppose the landlord is going to pay the bills? You also talk about 3% over guideline as the most the landlord will ever get, no matter what. You must be joking. I know your response will be, "No, we're not joking." May I suggest that you had better take a much closer look at the consequences of this bill. Look at an example such as what follows.

The landlord is ordered by the municipality to retrofit the fire safety of the building by installing sprinklers, etc. This work would justify a 5% increase, and because he could not get the work done in 30 days he gets a rent penalty. The landlord also experiences an extraordinary operating cost increase in taxes, gas, hydro—Hydro has announced a 44% increase—and the increase justifies, let's say, another 5%. Let's say the guideline is 5% and the landlord has a mortgage renewal that would have justified an increase of 4%. Let's say there are seven units in the building. Under your bill he will get the guideline of 5% plus 3% for an 8% increase in the next year if he gets the same. Let me ask you, how does he pay for the mortgage and capital expenses and extraordinary operating cost increases if he justifies a guideline plus 14% and you only give him 6%? What are the inevitable results? Mr Cooke says, "We'll buy you out." I offered Mr Cooke and Mr Rae my building and they have not bought me out.

What will it take to convince you that Bill 121 is wrong? What will it take to convince you that rent control is not the answer? How many tenants must remain homeless? How many future tenants must beg for shelter? How many property owners must lose their homes? How many property owners must lose their life savings? How many property owners must go bankrupt? What will it take before you will be swayed to get rid of this rent control system and really consult with us to find a workable solution to the problem of affordable housing that allows the people of Ontario to help those requiring assistance and allows us to get on with the business of supplying rental accommodation at an affordable price?

1120

Your party lied to the public with Bill 4 and never listened to us and the changes we proposed. You sit here today and pretend to listen to our proposals again on Bill 121. Do you honestly believe anyone can trust your party in the future? Do you have what it takes to tell the Premier he should scrap Bill 121? I bet you do not.

In a statement to the Legislature on June 6, David Cooke, the then Minister of Housing said, "I am going to provide real and permanent rent control for the tenants." He should have said, "I am going to provide a real and permanent housing shortage for the province of Ontario." He said this was the result of broad consultation. Lipservice is not consultation. Landlords did not suggest anything closely resembling Bill 121. He said he sent out a newsletter to nearly one million households explaining what rent options he was considering. He did not mean one million households; he meant one million tenants. Since when are his options consultation? He said 17,000 filled out and returned answers. Give us a breakdown of who those 17,000 were.

Replies from 1.7% is hardly enough to carve his act in stone. He said 1,300 people participated in a discussion. Unfortunately he kept the list of participants secret and we could not contact each other before the meeting. He said, "I personally hosted seven public meetings." He also forgot to say that he refused to answer questions at those public meetings. I was here in London. He refused to answer those questions. He said he spoke to special interests and expertise on rent control with different groups. He never contacted us on mobile home parks even though he promised at the meeting in London to look into this special area. He says, "This shows how we have listened." How can he say it shows he has listened if he did not incorporate any landlords' suggestions?

He says, "We've listened to tenants and we're going to address their fears." That is about all he has done. He says, "We've listened to landlords and the legislation recognizes small buildings." How? He did not do anything for small buildings. He made the guideline less and left it the same for the smaller buildings. He heard about the frustrations of landlords and that he was going to make the system simpler. Bill 121 does not do that. He talked about the importance of capital repairs and maintenance, and all you would want to give back is a mere pittance. He talked about rental accommodation being supplied because it was much needed, and we are not going to get it from Bill 121. He said he would provide a rent control system that can work. Bill 121 will not benefit anyone. It will work if it is

dictated as law and it will force us to give up our property. Annual increases will be based on a rent control index. What good is your index if you manipulate the damned thing to give us less?

He talked about 2% for major repairs. How do you lower the guideline and increase the amount for major repairs? He said it was based on inflation. What is your idea of inflation? It certainly is not 2.6%. He said there were two guidelines and as I said before, that is a joke. He said it was fair and innovative. Fair to whom? I guess you can call it innovative because no one has caused landlords more concern about their tenants and property before this bill and Bill 4. He said he would allow for capital expenditures only for the following reasons: "to maintain the structure and soundness of the building; to meet health, safety and environmental standards; to maintain plumbing, heating, mechanical, electrical, ventilation and air-conditioning systems; to provide access to people with disabilities, or to increase energy conservation."

What does all this mean? I see it as a well-worded description of how to disallow almost every capital expense that was ever allowed in the past. He said landlords must demonstrate that they spent that 2% for capital expenditures, but he does not define what he means by capital expenditures. It looks like it will not even be possible for the landlord to prove it because of those regulations he is going to stick in later. He says, "This means that tenants will no longer be required to finance luxury renovations." How can the minister keep on saying this when he has never defined luxury renovations? He says the 2% allowance for capital expenditures included in the annual guideline plus 3% that you can apply for—if he really gave us 5% for capital expenditures, it would probably satisfy most landlords. What about the few that it will not satisfy?

He says he will allow landlords to claim for substantially completed expenditures that have happened in the past 18 months, but then he says he will limit it to 3%. This is not what the government promised. The government promised fairness. If someone spent the money and justifies 5%, 10% or even 15%, pay him from before. How do you justify the 3%? He says he will not allow most of the reasons to pass through capital expenditures that were there before. What will he allow? Please explain what he means by "flexible" and "responsive." I will go right to the end. He says he expects to hear positive suggestions. We expect to have changes made as a result of the suggestions, but I do not think we should hold our breath if the way he dealt with Bill 4 is the same way he is going to deal with Bill 121.

The Vice-Chair: Thank you, Mr Eby. I have but 20 seconds.

Mr Mahoney: I would like the government to respond.

The Vice-Chair: There is time for one question.

Mr Tilson: We will give our time to the government.

Mr Winninger: I agree, Mr Eby. A lot of people bought into the RRRA under the Liberal government. A lot of people bought highly leveraged buildings. A lot of people passed through their financing and other costs and a lot of people hoped to get a capital gain when they sold the building. On the other hand, there are people here in London like Sam Katz, who came here as a refugee from Europe and has 20,000 tenants in Cherryhill alone. He never charged an illegal penny of rent and never raised the rents more than the statutory increase. He is a multimillionnaire now taking his money and building new housing units in Israel with it. We do not see him here today. He has done quite well, both before and during the RRRA. What is the problem? Why can landlords not make a profit? Is it that they are not making enough? Is that what we are hearing from you?

Mr Eby: You are incredible.

[Applause]

Mr Abel: I think he makes a lot of sense.

The Vice-Chair: Thank you, Mr Eby. I would like to remind people in the room that this is an extension of the Legislature and demonstrations of any sort are not permitted.

1130

FREEDOM PARTY OF ONTARIO

The Vice-Chair: The next presentation will be from Robert Metz. You have 15 minutes allocated for your presentation.

Mr Metz: My name is Robert Metz and I am president and leader of the officially registered Freedom Party of Ontario. Basically, given the limited time and forum offered to discuss the ramifications of Bill 121 and a permanent rent control system in Ontario, it would quite literally be impossible, in a 15-minute time period, to deal appropriately with its content in any meaningful way.

As you will notice by the attached Freedom Party response to former Minister of Housing Dave Cooke's consultation paper on rent control, my position and that of the officially registered Freedom Party of Ontario is that, simply put, rent control as a concept in itself is no option. I think it only fair to tell all the members of this committee and everyone else in this room that if I were to describe my reaction to rent control in a word, it would be that I find rent control offensive.

As an opponent of rent control—or even if I were a supporter, I do not think it would make any difference—I do not appear before this committee with any expectation of swaying this government's opinion or direction on the subject of rent controls. Indeed, it has been my repeated experience, in appearing before official committees and commissions over the past 10 years, that the only purpose served by them is to grant the illusion of public input while using that illusion to justify a predetermined government policy with respect to the issue being discussed.

I have yet to discover an exception to this rule regardless of the input into, outcomes or determinations of various commissions and committees. Their effect on financial government policy has been negligible. With these considerations in mind, therefore I feel it much more appropriate that my message be directed not primarily at members of this committee, but to the public, media and of course to the landlords and tenants directly affected by the draconian

legislation this government is clearly committed to imposing upon them.

First of all, I think one thing that has to be said is that there is no such thing as permanent legislation in Canada. All legislation is alterable and changeable almost at political whim, particularly in the case of majority governments. But the important element of any legislation is its ultimate intention, and the intentions behind all legislation are ultimately determined by the philosophy and perspectives of the party in power.

Bill 121 therefore, when enacted into law, will become this government's political and legal interpretation of what rent control should be all about. Former Minister of Housing David Cooke's consultation paper on rent control options left no doubt as to this government's intentions: the permanent entrenchment of a universal rent control system in Ontario.

However, despite using terms like "affordable housing" in its justifications for such a rent control system, the Ministry of Housing's consultation paper made a radical shift away from the issue of affordability and went on to state that the main justification for rent controls was "tenant protection against high rent increases." This raises an alarming prospect and forces me to ask why. Why would any responsible government choose not to distinguish between those in need and those with high incomes or accumulated wealth? Why is a responsible government so intent on a universal solution to an isolated problem, which is the affordability of accommodation to the lowest income groups in society?

In a June 1991 constituency letter I received from MPP Marion Boyd, she states that wherever she encountered tenants through public meetings across the province "one important point came through again and again...renters wanted to stop being afraid that they could get hit with huge rent increases."

It is frightening to think that our government is no longer motivated by serving needs, as it constantly tells us, but rather by serving wants. Let's ask ourselves, if home owners want to stop being afraid of getting hit with huge mortgage interest rate increases, does this obligate the government to start regulating interest rates in the banking industry? If consumers want to be protected from huge increases in food and shelter and housing, does this obligate this government to regulate and control these parts of the market? The question I want to know most assuredly is, why is this government not working to protect us all from huge tax increases?

Because of this government's universal and all-encompassing approach to rent controls, it has become painfully clear to me that the real intent behind rent controls has very little to do with the issue of affordable housing and a lot to do with political opportunism. If the objective of rent controls is to provide affordable housing, then legislation to shield all tenants from high rent increases is clearly not consistent with that goal.

Given the dismal economic and social record of rent controls, it borders on unconscionable that any government would even consider strengthening rather than phasing out rent controls. Apart from rent controls being an illogical and counterproductive means of providing affordable housing—and I will not get into the details here, but they are all included in our attached response to the ministry last March—it must be stated they are also a violation of some of the most fundamental principles and concepts necessary to the preservation of any free and democratic society.

Rent controls violate private property rights, since landlords are prevented from exercising their right to the fair market value of the service they provide, a right freely available to all their fellow citizens. Rent controls violate the sanctity of private contract, since both landlords and tenants must abide by rent control's predetermined terms and conditions. Rent controls violate freedom of association, since both landlords and tenants are not permitted to negotiate their own terms of contract. Rent controls violate the principle of equality before the law, since federally and provincially financed housing units are exempt, and also because in the event a landlord and tenant negotiate a contract outside the provisions of rent control, only the landlord will be charged. Rent controls are undemocratic because of all the reasons I have just listed.

So in my brief address I will conclude now by saying that I have to repeat my firm conviction that rent controls are nothing but a political invention created to serve political interests and exist for no other reason whatsoever, despite noble-sounding justifications on the part of rent control supporters. Because tenants outnumber landlords, landlord rights have been eroded to the point where the term "ownership," as it pertains to their properties, has almost become a meaningless concept.

To those who clearly see the inherent evils of rent control and who want to do something about it, I am offering a rent control option that no other political party in Ontario will offer them: an officially registered political party that, if elected, would put an end to the devastating and unjust policy of rent controls in this province.

Do rent controls work? If your objective is to buy votes, undoubtedly the answer is yes, at least in the short term. If your objective is to provide affordable housing or to protect the legitimate property rights of landlords and the tenancy rights of tenants, then the answer is clearly no. Let's scrap Bill 121 and direct housing assistance to those who most desperately need it and let's let the rental accommodation industry in this province flourish and thrive, as it once did before the advent of rent controls in Ontario.

Ms Poole: Thank you for your presentation. One of the problems we have with rent regulation in this province is that it treats every area of the province and every situation identically. I think this is something you have pointed out in other words in your brief. In London, for instance, I understand there is a very high vacancy rate; there are a lot of available apartments. At the same time, in some areas such as Toronto there is a considerably tighter vacancy rate, although recently it is improving.

What I would like to ask you is, when you say you would phase out rent controls, how would you do that?

Mr Metz: To begin with, on any new construction there should be no rent controls at all. On existing units it

should be phased out over a three- to five-year period, which could be slightly adjusted, depending on how the market may be responding in providing more housing while we are waiting for rent controls to phase out.

Ms Poole: One of the basic problems, though, is that the price of land and other housing costs today make it far more profitable and far more encouraging to build condominiums or office towers than it does to build rental. I know you might say this is because of rent controls, but I am not convinced. I think just looking at the cost of building a new unit today, it is very difficult to build affordable housing.

Mr Metz: I have had a lot of personal experience in that, since I actually built my own home once. I can tell you that one of the major costs I was not expecting was the cost of government licensing, development fees, taxes, property taxes that are far beyond what service the property receives from the municipality or from anyone else for that matter. I think if you are looking at the price of housing in this country in general, rent controls definitely are an aggravation, but I can certainly cite a number of other causes and they all generally relate to some form of legislation or government intrusion into the marketplace.

I think if a government wants to really do something about helping the disadvantaged and the poor in our society, that should be its target. You do not hold landlords responsible to provide welfare accommodation for people who just simply do not want to pay higher rents, even if they have the ability to do so. If you ask anybody about any issue and put it in that perspective—"Would you like to have lower food prices? Would you like to have lower interest rates? Would you like to have this?"—of course, everyone would; that is a given. But it is not the function of government to give us all our dreams and desires at the expense of other people. I think we are seeing what is happening in this country today, because this is the philosophy that the major three parties, federally and provincially, all practise.

Ms Poole: I would like to pursue that. I am trying to get away from talking about the philosophy behind it. I understand and appreciate your point of view, but how do you provide those incentives to build? Yes, it will be an incentive if rent controls are lifted, but I am not sure that is going to result in many new units being built. For one thing, you have pointed out that policy changes on the whim of every government. After Bill 4 and after certain things this government has done, how would people even trust government to keep its word if it says it is going to end rent control? What developer is going to put up a building on the premise that this government and future governments will keep to that agenda? I am trying to think of practical ways to get out of that dilemma.

1140

Mr Metz: What you are telling me, which is an alarming thing to hear coming from a committee member, is that you are saying government is completely untrustworthy.

Ms Poole: No. I am saying, how do you restore the trust of the people in it?

Mr Metz: The trust of the people has to be regained by a political party that will honour its commitments to do what it promises to do for them and not to misrepresent and give them policies that they say are going to solve their problems and just aggravate their problems and make it even worse.

Mr Abel: In your document here, or your information package on rent control, you make reference to the doctrine of isonomia, which states that the law must bear equally on all and not favour one citizen over the other, and that is exactly what we are trying to do with Bill 121. We are trying to balance an imbalance that was created by Bill 51 and the Liberal government.

Mr Metz: I understand what you are saying, but it is not rights that are being balanced.

Mr Abel: I have not got to my question yet.

Mr Metz: Oh, sorry.

Mr Abel: You say that you feel this legislation is restrictive. Without getting into a long philosophical discussion on your political views, how would you explain it to tenants who have been economically evicted, who are facing increases that in some cases are twice the increases they are receiving by way of wages? How would you explain that to those people in this province?

Mr Metz: I suppose that is like asking, "How do you explain to home owners massive increases in their mortgage rates," or "How do you explain to the taxpayers the massive increases in their taxes?" These are not things that have to be explained by government. The tenant should have a healthy, vibrant housing market from which to choose. If he does not like the relationship he has with one particular landlord, would it not be nice if he could just pack his bags and leave and get a better deal from another landlord?

Unfortunately, we have lived with rent controls for 15 years now and a lot of people have even forgotten what it could be like without them. I will tell you. I went down to Florida recently and down there landlords are the ones who are screaming. They would like to see something like rent control, because the market controls prices so much better. Tenants are getting a great deal down there. There is no rent control in that state.

Mr Abel: I will tell you, sir, I would not want to be around when you tell the landlords if they do not like it, they can pack up and leave. I will pass to Mrs Harrington.

Mr Metz: You are oversimplifying the reaction there.

Ms Harrington: We do believe in regulation. There are many regulations involved in our society. We feel that is why Ontario is a very good place to live. For instance, environmental regulations, we license automobiles. This is not an anything-goes type of society. Maybe you do not even believe in public education. I am not sure. I would like to tell you that I believe in stability in housing in Ontario. That is the goal that we are working towards and it is a very difficult thing.

Housing is a basic necessity. We cannot do other things in our life and be successful in this life unless we have a place to live. We do not just want to have people packing

up their bags and moving any time there is a problem. I am looking for answers. That is why we are here. Some people have told me that a subsidy to people who have low incomes is the answer. Do you believe that is an answer? Some $1.4 billion is what it is going to cost, a financial black hole for the taxpayers of Ontario, to subsidize people. Would you consider that an answer?

Mr Metz: I would consider it a preferable approach to rent control itself, but I do not consider it an answer since it has not been an answer in any jurisdiction in which I have ever seen it tried. However, getting back to your comments on regulations and laws, I think there is a big difference between regulations and laws that protect individuals' rights to freedom of choice, their right to free contract, and those laws which prohibit them from making their own choices. If I as a tenant or I as a landlord made a deal with another tenant or landlord and it was mutually satisfactory to both of us, but because it was outside what you want, why does the government have a right to tell us how to conduct our private affairs? I do not understand what moral premise the government can possibly be operating on to suggest such a thing.

Ms Harrington: Why do we have the right to protect the environment for future generations?

Mr Metz: Then we should protect our housing market—

The Vice-Chair: Thank you, Mr Metz. We appreciate your presentation.

LONDON PROPERTY MANAGEMENT ASSOCIATION

The Vice-Chair: The next presentation will be made by John Gleason of the London Property Management Association. We have 15 minutes allocated for your presentation.

Mr Gleason: My name is John Gleason. I represent the London Property Management Association. We have some 182 members, comprising owners, property managers and service personnel. Through regular monthly meetings we strive to educate our membership in matters relating to the effective and efficient operation of their buildings through legal updates on current and pending legislation, as well as to offer advice and give direction on landlord and tenant relations.

We recently held a special meeting to inform our members of the contents of Bill 121. Predictably, there was both shock and anger at what the government is proposing to legislate. There was abhorrence at the maximum limit of 3% on capital increases and that this same percentage is to cover extraordinary operating cost increases—such as hydro, water and taxes—in any given year, astonishment at the recalculation of the guideline formula and extreme displeasure at the elimination of financial loss. But the idea that legal maximum rents could possibly be reduced and that tenants would have the ability to challenge the guideline increase on the vague grounds of yet to be defined inadequate maintenance was absolute horror and disbelief.

They questioned how they could, as owners and property managers, possibly make intelligent business decisions and finance needed work when the guideline and base rents could not be guaranteed. It is this issue I wish to address today. For the first time in Ontario, it could be quite possible that a building may not receive the guideline increase and, worse, could receive a rollback in the maximum rent due to inadequate maintenance, whatever that is. To add to this injustice, officers of the Ministry of Housing, not an arm's-length hearing body, will have the power to stay increases or roll back rents. The bill goes further, to state that if the work order is not completed within 30 days the director may issue a rent penalty. There has obviously been no thought given to the availability of parts or qualified labour, weather conditions or the time of year.

The problem is further compounded by the fact that the order and completion date will apply to every work order, no matter how frivolous it may be. Imagine what will happen when tenants realize they have the ability to freeze or reduce their rents by reporting a maintenance infraction? It will lead to abuse and misuse of the system through deliberate vandalism and trivial claims. If this section must remain as part of the new legislation, a clear definition of the term "inadequate maintenance," as well as other issues, must be reviewed.

Webster's dictionary defines "inadequate" as "inefficient and lacking." "Lacking" is defined as "deficiency," so to relate this to inadequate maintenance, it would be a deficiency in the apartment. We must also address to what length the term "inadequate" be allowed to be used when complaints are filed in order to resolve the issue but avoid abuse.

I certainly do not think all tenants would wilfully damage building components in order to avoid a rent increase. However, just as there are a few bad landlords, there are also a few bad tenants who will abuse the system if allowed. The government has decided to create an entirely new piece of legislation as a result of the abuse of the system by those few bad landlords, so I submit that this area be very clearly and precisely defined to avoid ambiguity and possible misuse by those few bad tenants.

There are standards in place now in most municipalities that address heating and safety requirements. These should be maintained. To avoid the possibility of tenants wilfully causing damage in apartment units, the ministry could possibly rely on the incoming inspection reports that each tenant signs on entering a unit he or she has leased. This report is signed by both the landlord and tenant and notes the unit's condition, room by room. This also notes that all appliances are in working order and that the apartment has been cleaned. This form could be used as proof that any subsequent damage or deficiencies were caused after the tenant entered the unit. Mechanical failure as a result of worn or defective parts would be excepted.

1150

In order to avoid having an inspector run out to review every complaint, the ministry, when it receives a notice from a tenant, should get a copy of the incoming inspection report, if the problem exists in the unit, as well as allow the landlord a minimum of 90 days to address the concerns, to either correct it if he is able to in that time frame or refute the allegations of the tenant to the minister. If it is a complaint about areas outside the unit, again, the landlord should have at least 90 days to correct the problem

if he is able to in that time frame or refute the tenant's allegations.

The tenant should also have to provide why he feels the problem he is having be considered under the heading of inadequate maintenance. Certainly, just as the minister has recognized the differences between buildings in setting the guideline increase, so should they be recognized here, only by age, not by the number of units. Inadequacy in new buildings is not the same as in older buildings. Systems and designs differ; for example, incremental heat units versus hot water boilers, Thermopane windows versus single-glazed windows.

The time constraint of 30 days is just too short. Even if the work is completed on time, the landlord has to notify the director, who has to go out and inspect the unit and, if satisfied that the work has been completed, advise the tenant of this fact. This inspection process will take 30 days on its own. A more reasonable time frame would be 90 days or longer, depending on the amount of work to be completed, whether financing will be required to carry out the repairs, as well as give consideration to the availability of parts and labour, weather conditions and the time of year. As well, all maintenance complaints and resulting penalties should only affect the tenant and/or the unit where the complaint arose.

In closing, I ask that you review Bill 121 in its entirety, specifically the area dealing with the unreasonable maintenance enforcement rules and their possible effect on achievable and maximum rents. This area of the new legislation will not only have dire consequences on owners' abilities to achieve financing to do the necessary capital work at buildings, but it will pit landlords against tenants and cause disharmony and mistrust between the two as a result.

Our association has always preached the commonsense rule that if you look after your tenants properly and treat them fairly, the tenants will look after your investment. I am afraid that implementation of Bill 121, and specifically this section, will put landlords and tenants in an adversarial position and could for ever ruin the conciliatory and caring attitudes they once felt for each other, as well as the pride they once had for their buildings and homes.

A news release from the Ministry of Housing, dated June 6, 1991, indicated that "the proposed rent control system is the product of a broad consultation with tenants, landlords, municipal and financial officials and many other people across the province." If this bill represents the product of the supposed broad consultation, then both the multiplier and the multiplicand of the equation have been the ideas received from tenants alone.

It has been suggested on a number of occasions at meetings with the Minister of Housing and at previous committee hearings that representatives of landlords and tenants should sit down face to face to arrive at a new and workable piece of legislation. I still believe, as do many others, that this approach would resolve a lot of the issues each side has with this bill. This process would allow each side to fully explain its concerns.

I ask you, on behalf of the members of the London Property Management Association, to listen to what the landlords of this province are saying about the damaging effects this bill will have on the housing industry and to use their suggestions to arrive at a fair and equitable piece of legislation. We all want fair legislation. Please ensure the fairness extends to landlords.

Mr Tilson: You have obviously described what you anticipate will be the plight of the landlord if this bill is passed. We have certainly heard Minister Cooke's and many of the government's allergic-to-landlords type of speeches, saying that the purpose of Bill 121 is to stop flipping, to stop marble foyers and those types of things. If Bill 121 is passed substantially without amendment, what will be the plight of the tenant? What will be the quality of life of the tenant in the next few years?

Mr Gleason: I think you will find the quality of life from the tenant's standpoint will be reduced substantially. I do not think landlords will have the ability, through the proposed legislation, to allow them to do the necessary repairs, although, as indicated, they will be forced to through this particular section in the act. It is certainly going to cause a lot of animosity between the two parties. I suggest there will be damage, as I have indicated, by tenants to ensure that work is completed or that they do receive new carpeting, possibly new windows and those types of issues. I think there is going to be a definite downturn in the market. I think, again reiterating, landlords and tenants are going to be at each other's throats.

Ms Harrington: It sounds like you have a good organization, that you are encouraging standards. This is what we want in Ontario. It is important—and let me say this over again; I think I have said it about 100 times—that we have a viable private rental market in Ontario. It is the only way this province can go forward. We appreciate your concerns and some of the suggestions you brought forward here; for instance, your concern with regard to the 30 days. I can tell you it is not just 30 days. Certainly there needs to be more time ahead of that for the orders to be dealt with. Your idea of an inspection report is certainly something we can consider.

Maintenance enforcement is very important to this government, very important to tenants and, I believe, important to you as landlords as well. We have to make sure our buildings are kept up. This is, as you have pointed out, a major part of this legislation and a major promise we have made. I have to deal with that.

You said landlords and tenants have to work together. We believe the same, that there has to be a healthy relationship there. I want to make just one further comment about consultation. I have been to consultations in many cities around this province. From 6:30 in the evening until 8, we had the tenants; from 8 until 10, we had the landlords. We had the ministry staff there with me and we had other members of the government doing this. We talked to tenants, we talked to landlords and we brought this back. Even in April, when the final decisions were being made with regard to Bill 121, I remember, in a room about this size in Toronto, we had the banking people, we had the tenants, we had the landlords, we had the legal people and

we were all sitting around when those final decisions were being made.

Mr Gleason: I think what we are asking is that you listen to what we have to say and the input we are giving the committee hearings. From our standpoint as landlords, both the previous committee meetings and the meetings with the minister seem to have proved unfruitful. You are digging a deeper hole for landlords and you are causing, at this point, an adversarial position between landlords and the government and landlords and their tenants, and we do not even have a piece of legislation in place yet. The proposed legislation is not going to work and there is not going to be harmony as a result of it.

Ms Poole: Thank you very much for your presentation today. I really appreciate your comments on the maintenance and work order provisions. It is something that people have raised as a concern, but they have not offered as many constructive solutions as you have.

For your information, we do share your concern about the lack of definition of words such as "inadequate maintenance" and "neglect." Three weeks ago, on August 1, I asked the ministry to provide this committee with definitions of those two terms. To date, they have not been able to do so. When they do, we will make sure you get them.

Your point about the time frames is absolutely correct. It is 30 days or else and no extenuating circumstances. Whether it be the fact that it is in an underground parking garage, which may take a year and a half to complete, whether it be inclement weather, whether it be exterior wall work, whatever, there is no opportunity to dispute, to appeal or indeed to give any outlines of special circumstances. I would like to ask you if you are familiar with the provision relating to special circumstances under Bill 51.

Mr Gleason: In what regard?

Ms Poole: There was a provision under Bill 51 that the rent review administrator was to take into account whether the work was seasonal, whether, for instance, it was exterior work to be done, whether there were extenuating circumstances. That had to be taken into account in any decision. I just wondered if you were familiar with that.

Mr Gleason: Yes.

Ms Poole: Would you like to see that reinstated? Do you think that would help?

Mr Gleason: Absolutely, and I think that is where I was heading on this whole issue.

The Vice-Chair: Thank you, Mr Gleason. We appreciate your presentation.

1200

MENESET MOBILE PARK INC.

The Vice-Chair: The final presentation this morning will be from Keith Homan. You have 15 minutes to make your presentation.

Mr Homan: Good afternoon. My name is Keith Homan. I am the owner, operator, electrician, plumber, ditch-digger, maintenance man, place man of a land-leased community called Meneset Mobile Park.

This is my third presentation to your government over rent controls, but since there are a few new faces here and since the old ones will not remember me, my wife and I are the owners of a 230-home mobile home park. The park was started in 1967 as a seasonal park and at present is being converted to a permanent mobile home park, the residents being mainly seniors. My rent is $163 per month, with which I provide and maintain all water and sewage systems, hydro lines and paved roads.

The purpose of your new Bill 121 is to provide protection to tenants from high rent increases and to ensure maintenance of existing rental housing and to get the evil landlord. What of the landlords stuck with chronically low rents where a 5.4% increase means $8 or less per month, not $33 per month? What of the chronically low rent that will not provide the income to maintain the existing rental unit?

My wife and I started our park 22 years ago as a seasonal park. Our rents were not high at that time as we had an income from my teaching high school and my wife's nursing. All our income, as well as park income, was put back into the business to develop something for our future. We were subsidizing the tenant at that time and for that we now suffer.

In the mid 1970s I gave up teaching to go into the park business full time, as it was too much for one employee to run. I soon realized my rent would have to be higher to carry the business, but along came rent controls. My rent at that time was $50 per month. Since I am converting a seasonal park that had 15-amp plug-ins and hoses for water to a permanent park with 200-amp service and watermains, it is very difficult with low rents. This should have been looked at as a new development. However, I struggled along under the old system doing a whole billing review each year. I was almost to the survival point when along came the NDP. I now cannot generate enough income for anyone to want to buy my business. My property has devalued by 40% due to rent controls.

This bill has taken away—excuse me, I get a little upset over these—all my initiative to keep improving my park. I will just work now to provide the present standards of maintenance and repairs. The services that were installed to run a seasonal park will be maintained instead of upgraded. Until the rent freeze, we did many improvements each year to our park and to our recreation hall, so much that now there are over 100 people at many of the functions. Needless to say, the recreation hall is now too small, and tenants as well as ourselves would like to have seen it expanded and winterized.

When are you going to differentiate between apartments and mobile home parks? In your allowable capital expenditures increases you talk about increases for (1) energy conservation: The tenants own their own homes, so this does not apply to us; (2) access for persons with disabilities: This does not apply to us; (3) maintain ventilation, heat and air-conditioning: We are a land-leased community so ventilation, heat and air-conditioning comes from whatever weather the good Lord sends us; (4) physical integrity of the complex: What does this mean to a park? How does this apply to us? (5) health, safety and

environment standards: Well, finally, one that could apply to us. I can now get an increase for the bucket truck I bought to trim dangerous trees blown down in storms. I can pay for the dump truck I bought to pick up weekly garbage, fallen tree limbs and leaves in the fall. Surely, these will fit into that category.

Can I get an increase for an extra man, or do I have to keep on duty 24 hours a day, seven days a week? An employee I had for nine years quit in July when I could not give him an increase because of the rent freeze. He left a $16.50-an-hour job for a $18.50-an-hour government job as a janitor and painter. It takes me three years to train a man to know where all shut-offs are, how to fix and maintain broken water lines, pumps, etc. It is not like an apartment where you can call a plumber or an electrician to do straightforward repairs.

Under extraordinary operating costs, we are allowed increases in four areas: heat, water, hydro and municipal taxes. None of these applies to land-leased communities. Apartment buildings are hooked into city systems. Therefore, when water rates go up due to expenses, the landlord can pass this on to the tenant under the heading "water." In my park, I supply the water with four drilled wells and 20 supply tanks. When I have to upgrade these systems, I cannot pass it on to the tenants as extraordinary operating costs. Municipalities get government grants of up to 70% to upgrade their water and sewer services; I do not and yet I am to upgrade with a 3% rent increase. Is this a joke?

Parks seem to be something you cannot handle and want to shove into a closet. If you would open your eyes, you would see they are an ideal place for starter homes and seniors to retire into. We are just beginning to deal with an exploding senior population. Many seniors who enjoy mobile home living in the south return to Canada to look for a park and cannot understand why there are so few land-leased communities in Ontario when it is such an affordable, community way of life. In our area alone, 250 people are employed in two plants which build these homes. Have you flipped a coin to decide which category you are going to put us into for rent increases? There is one for six units—apartments, I presume—which allows for capital expenditures to be carried forward for two years and takes two thirds of rent control index, or one for seven units or more which allows 50% of the index plus 2%, or perhaps none of the above.

Remember, 5.6% of $150 rent in a park is an $8-per-month increase, while 5.6% of $600, which is an average apartment rent, is $33 per month. It costs parks just as much, if not more, to be maintained, especially if they maintain and own all the water, sewer and hydro systems. And as I stated before, we do not get government grants for upgrading these services as municipalities do.

With your 3% cap, I can only replace one sewage pumping station each year. This makes it extremely difficult and expensive, as equipment and men have to be brought in each time to do the job. Also, since I am changing to a more economical pump, some stations will be different, requiring me to carry two types of pumps for standby.

The health department has asked me for three more 5,000 gallon septic tanks since I have changed from a seasonal to a permanent park. This I cannot do because of the cost until after I change my pumps, so we are looking at six years down the road. By that time, my tile beds will be ruined.

Hydro was off for two hours the other day. All my antiquated water systems had to be shut down because I cannot afford a new system with air bags. Therefore, someone has to be in the park 24 hours a day to turn off the water pumps in case the hydro goes off. This, of course, happens to be me.

How nice of you to let me have a 3% increase for my capital expenditures from 1990 to June 1991, since I had over $60,000 worth of capital expenses. However, they probably will not fall under your new criteria. Since your rent freeze, I have had to spend several thousands of dollars to upgrade a tile bed, put a building up to house my equipment, shingle buildings as well as shingle the park recreation hall so the tenants can continue to use it through the winter, rather than wait for the rent freeze to lift. The roof was over 20 years old. I will never be able to recoup this expense.

In summary, I would like to leave you with these questions:

1. Why do you not include extraordinary operating costs which apply to parks?

2. Are we under the classification of six or seven units or more?

3. Under capital expenditure, there is no provision for employees.

4. Why has GST not been taken as an extraordinary operating cost? It will cost me an extra $14,000 this year.

5. Why do you not recognize increases in employee health tax, unemployment insurance, Canada pension plan and workers' compensation?

6. Why are you not looking at chronically low rents?

7. Why do I have to read Toronto, Toronto, Toronto in every landlord-tenant action? Why do low-rent apartments have to suffer so that you can stop high Toronto rent?

8. Why are parks grouped in with apartments?

9. Where is the interministerial committee that is supposed to be looking into mobile home parks and why are small town parks not being consulted?

10. How is 3% per year going to help me rebuild systems over 22 years old?

11. When is a mobile home's life done so that it can be removed from a park without having to buy it and remove it at our expense when they are eyesores, dilapidated, and do not pass hydro standards?

12. What do I do with my park if I get injured or wish to retire? I cannot afford the two men needed to take my place.

Ms Harrington: I thank you for your list of questions there.

Mr Tilson: Any answers?

Ms Harrington: Certainly. I know this legislation does not fit mobile home parks; that is very obvious.

Mr Turnbull: So why is it included?

Ms Harrington: Sir, let me try to finish. As you know, it was included under the RRRA, and at that time in the Legislature, we explained that the report you were speaking about is coming out this fall and it has many, many aspects of trying to deal with the problems of mobile home parks across this province. I am certainly looking forward to trying to get some answers from our experts who have been dealing with this interministerial report for some time now, because I will tell you, it is a problem in my riding.

I was on municipal council and we had to deal with some of these problems. It has been a problem in Mr Duignan's riding and many others across this province.

Mr Homan: Excuse me. I called a Mr Brush in Toronto and told him I would come down and spend a day with him, with this committee, and he said he had all the information he needed from the Toronto area, and he would not talk to me.

Ms Harrington: I am not sure who he is.

Mr Homan: He was the head of the committee.

Ms Poole: Mr Homan, I remember very well when you presented before our committee in Windsor under Bill 4 and the Liberal caucus and the Conservative caucus voted to strike that provision in Bill 4 and to take you out of the legislation so you could have separate legislation.

I would like to use the Liberal time for the government to answer your question why, if they do not fit into this legislation, did it not exclude mobile homes, and then in the fall when it gets its report, have specific legislation to deal with their very unique situations.

Ms Harrington: What I was trying to explain—thank you very much, Ms Poole—was that the mobile home parks were very important places for affordable housing for people in this province and there are many problems associated with that; first of all, environmental concerns. It is almost like a small town, having to put sewers and water in, and roads and all the rest of it, and the attitude of many municipal councils with regard to the zoning. We think it should be a viable choice and yours should be a viable operation, but many municipal councils are trying to eliminate these things from their jurisdiction. We, as a province, and as the Ministry of Municipal Affairs, have to deal with these situations.

I would like to just state that the report is coming out in the fall and I am most anxious to get hold of it and work with our whole government to make sure that this type of affordable housing is covered in a regulation, so that it will not get pushed out of the province, and that you will become an operator who has the regulations to be able to operate a good, viable business in Ontario.

Further than that, I cannot comment because I have not seen the report. But what I am saying is, what was in the RRRA has been continued in this legislation because we feel it would be unfair to drop people who had been covered by some protection, not just your particular operation. What are your rents right now?

Mr Homan: It is $163.

Mr Turnbull: It is quite obviously ludicrous that this is included in Bill 121. You made an excellent presentation when you came down to Windsor and spoke to Bill 4. You pointed out the many ways in which housing rent controls were totally inapplicable to your kind of operation. Mrs Harrington said they were studying it, and it should have been quite apparent that this section should have been brought forward as separate legislation. It is inexcusable, given the fact that we were told that because it was temporary legislation, it would be considered later on, and it is not considered. We are going to move immediately to have this struck from any regulation at the clause-by-clause study of this. Your comment when you offered to come down and spend the day with them is typical of the lack of consultation that this government is into. Any comments you want on that?

Mr Abel: It is not true.

Mr Homan: The last I understood, it could be possibly two years before we have anything come out, and we cannot afford to wait two years.

The Vice-Chair: Thank you, Mr Homan. We appreciate your presentation this morning.

Mr Mahoney: Where will you be in two years?

Mr Homan: Teaching high school.

The Vice-Chair: That concludes the committee's hearings this morning.

Mr Abel: Just on a brief point, with the presenter before, Ms Poole made a comment regarding the time constraints on work orders. I am not too sure of the accuracy of her comments. Would it be possible to have somebody from the ministry give us a clarification on that?

Ms Poole: Could I just ask for a clarification of what part of the accuracy he questions?

Mr Abel: The time constraints. You mentioned 30 days.

Ms Poole: Thirty days is what it says in the legislation.

Mr Abel: Okay, could we have a clarification, please?

Mr Turnbull: Why do you not read the act, and then you will know?

Mr Abel: Why do you not listen, Mr Turnbull? You might learn something.

The Vice-Chair: The ministry is here to help.

Mr Turnbull: You come to hear this and you have not read the legislation.

Mr Mahoney: I think it is fair to want to know what 30 days means.

Mr Abel: That is what I asked for.

Ms Poole: Thirty 24-hour days.

Mr Irwin: Terry Irwin of the Ministry of Housing. Section 39 sets out the provisions for the director to issue a rent penalty order against a landlord. The way that section reads is, "The director may issue a rent penalty order" after the expiry of the 30 days' notice given under section 38.

Under section 38, the director, upon receiving either an outstanding work order from the municipality, an outstanding work order from the Residential Rental Standards Board or an outstanding work order from a provincial inspector, "shall issue a notice of possible rent penalty."

There then kicks in a 30-day period with a built-in procedure for application by a landlord to have the matter reconsidered.

The rent penalty provision under section 39 cannot go forward unless the landlord's application has been taken care of, the built-in appeal process has been taken care of. So just to be very clear, this 30-day period only kicks in after the expiry of either a municipal work order, a current standards board work order or work orders that will be issued by provincial inspectors once Bill 121 is passed.

Just a further point of clarification: Generally, work orders take into account the length of period required to do the work. For example, I have seen work orders for parking garages that have a two-year time frame on them, taking into account some of the concerns that Ms Poole has raised about seasonal work and things like that.

Ms Poole: Certainly municipalities vary and not every municipality has a flexible time limit on its work orders; some of them go right across the board. If this is the scenario, then it is 30 days, 60 days, whatever. Others have more flexibility, but it is a very major problem, and I have talked to many people about scenarios where the work takes much longer than was originally anticipated. It could be even a construction strike.

Mr Abel: Two years?

1220

Ms Poole: That is right. Normally a work order would not give two years for an underground parking garage; it would be a much more constricted time. It may seem like a reasonable amount at the time, but quite often they are actually in there before they realize the extent of the work, even with all the structural engineering reports. So that is a very major concern that people have presented to us, that this could be interpreted by the rent director in a very arbitrary manner. Yet there is not that opportunity, prior to a rent penalty going into effect, for there to be an appeal, a dispute or even a discussion of extenuating circumstances. That is the problem. After the rent penalty is on, then the landlord can do something about it. The landlord cannot do anything about it before the rent penalty is on, and that is a major difficulty.

Mr Irwin: Again, I would just point out that at section 39, "the director may issue a rent penalty," and there is the process in that 30-day period for the landlord to make an application.

Ms Poole: The way the situation presents itself is there is a work order put on the building with a time limit, say a 60-day time limit. After that 60 days, when there is non-compliance—it may even be substantial compliance but not complete, not enough that they can lift the work order—it is then registered with the standards branch under the current one, but under the new one with the rent director. I will not call him or her a rent control director. Then that rent director has a 30-day period. If there is still non-compliance, they can go ahead; they have the discretion to go ahead and issue that rent penalty.

Where in here does it say that after the non-compliance by the landlord with a work order there will be notice given to the landlord that it is then going to be dealt with via a possible rent penalty by the rent control director? What kind of notice, what kind of opportunity is there for that landlord, if he or she cannot comply, for extenuating circumstances, to do something about it?

Mr Irwin: The notice that the director issues under section 38 sets out the time-limited period for applying to the chief rent officer for a review of the work order. For lack of a better term, that is the built-in appeal process for that 30-day period. The notice also sets out the fact that if a landlord does not complete the work within 30 days, the director may issue a rent penalty order under section 39. The two clauses I am referring to are 38(2)(c) and (d). That is what is contained on the notice originally set out by the director.

Ms Poole: Are you then saying that if a landlord, once he is aware that there may be a possible rent penalty, shows extenuating circumstances, that rent director would not issue a rent penalty?

Mr Irwin: The other section we should take into account is section 40, where it provides the opportunity for the landlord who has completed the work to notify the director of that fact, and the director, under subsection 40(2), is required to send out an inspector to verify that circumstance.

Ms Poole: That is only if the work has been completed, though. That is not if there are extenuating circumstances. That is the problem. It is not a problem if the landlord is just being recalcitrant and has not done the work and within 30 days can do it. The real problem is the landlords who are genuinely trying to do the work and are not given that opportunity to talk about the extenuating circumstances.

The Vice-Chair: Mr Abel, did you have something further to clarify?

Mr Abel: Yes. I just found Ms Poole's comments earlier somewhat misleading, and that is why I asked for the clarification from the ministry. I think they have clarified that quite adequately.

The Vice-Chair: Would you like to reconsider the word?

Mr Abel: Which word?

Interjection: "Misleading."

Ms Poole: It is called unparliamentary.

Mr Abel: I found it somewhat inaccurate. Misguiding?

Mr Tilson: That is worse.

Ms Poole: That is attributing motives to another.

Mr Abel: Oh, well, I found it somewhat inaccurate.

The Vice-Chair: That would be acceptable.

Mr Abel: Okay. I would not want to offend.

Ms Poole: I would have thought the member was quite confused.

Mr Abel: I would not want to hurt Ms Poole's feelings or anything like that, of course.

Ms Poole: It hurts my integrity, not my feelings.

Mr Abel: I think the ministry staff has adequately explained the misunderstanding.

Mr Tilson: I have one question. It appears that you cannot appeal a work order. There is no allowance for an event where the work order is appealed, whereas normally you could. So if a work order is made, there is no allowance. There does not appear to be any that I can find, unless I am wrong, in which case you can correct me.

Mr Irwin: Generally, municipal work orders are appealable. Under section 35, "The director shall receive a copy of any order, and any notice of appeal from an order"—

Mr Tilson: That is 35 what? I am sorry.

Mr Irwin: Section 35. That is really when we receive, from the municipality, not only outstanding work orders but we are also receiving notices of appeal of the municipal work order.

Mr Tilson: The difficulty of course is section 38, which talks about the specific work order. Maybe it would be a more appropriate time to deal with that at the clause-by-clause, but thank you.

Mr Tilson: Getting back to the issue that was raised by Ms Poole—in other words, the issue as to whether or not a landlord has made every effort to comply with the work order, and I am getting back to the discretionary word "may" in section 39—does the ministry anticipate preparing any form of regulations on this whole subject? If so, could we have that prior to the clause-by-clause discussions?

Mr Irwin: There will be prescribed regulations around the whole maintenance area, as set out here. I am not sure I can comment on when they will be ready.

Mr Tilson: I am thinking specifically, if the issue of section 39 is discretionary to the director, whether you anticipate any guidelines to the director to enable him or her to make the decision. Obviously no.

Mr Irwin: Well, no, I am supposing—and this is more or less a personal opinion because we have not got to that stage yet—there will be guidelines on how we carry out a lot of aspects of this act, including the rent penalty area.

Mr Tilson: Mr Chair, I must say that this is a grave concern that I think both the Liberals and our party have expressed, this whole subject of regulations. I do not know whether we are going to have the time to properly debate that with respective members. It certainly gives me a great deal of concern. It happens every day: We do not know what words mean, we do not know what guidelines mean. I just raised that for you, as Vice-Chair, to raise with the Chair, who in turn would presumably enable us at some time or other to discuss that, to properly debate that subject.

The Vice-Chair: As you are aware, the Chair has no power in this particular situation, but it is rather in the hands of the committee. If the committee decides to discuss this issue, that is something the committee can decide.

At this point, I would indicate to members that the committee will return at 2 o'clock. It is the intention of the Chair to begin immediately at 2, and we would like to see all members here for that. We have a very busy afternoon that requires a great deal of diligence by the Chair in terms of the time given to each person. We will have to work very hard this afternoon. So thank you. I would remind members in the hotel that we must be checked out by 1 o'clock.

The committee recessed at 1232.

AFTERNOON SITTING

The committee resumed at 1400.

The Chair: We have a long list of presenters for this afternoon so we will get right down to business.

JIRA JELINEK

The Chair: The first presenter is Jira Jelinek. You are allocated 15 minutes for your presentation. You can withhold some time if you wish for questions and answers.

Mr Jelinek: My name is Jira Jelinek. My wife and myself are owners of a 12-unit apartment building 30 years old. We purchased this property as some sort of security for our old age. I know this is a typical story of many small rental property owners and I hope you are not bored to hear it again. It cost us 15 years of savings and the last seven years of second shifts, weekends and most of our vacation time spent on maintenance and repairs. We built up an excellent relationship with our tenants by offering them good-quality accommodation and enjoyable living.

Last year, after discussion with our tenants, we started large scale repairs and so-called capital expenditure, nothing luxurious, just maintaining appropriate good standards. For two of us, it was a time- and money-consuming project. For all tenants, it was very inconvenient living during several months but they never complained and we were all looking forward to the end of the work. I thank them for their patience. We got lots of compliments from tenants, neighbours and even from passing citizens. The cost of the whole project was over $76,000 and more than 2,000 hours of our own labour at the rate of zero dollars per hour. So what about human rights? The slaves got at least food for labour; we got nothing.

But who did not appreciate our struggle was the newly elected government. After extensive propaganda against landlords—and by the way I hate this classification—we were not only deprived of any compensation but we found ourselves put into the category of dirty criminals exploiting poor, innocent tenants by asking more money for better accommodation.

There is a rather primitive argument that we will recover expenses after selling the property, but we want to keep it. So are we automatically losers? Some tenants just dismissed the situation as tough luck. They are more right but this tough luck will sooner or later affect them as well. The retroactivity of Bill 4 is outrageous. While it benefits more people than it harms, its basic unfairness is shameful.

Now we may get some token compensation under the new legislation, which is nothing more than a little bandage to cover the deep wound from the knife thrust into the back of those of us who take care of our property more than others. Is 3% enough or too much? Will it ruin the life of tenants and get landlords richer? The catch phrase is the protection of tenants from the high rent increase. But did someone take paper and pencil and start to calculate the income and expenses of rental properties, especially those inexpensive ones?

Let's take a repair of the roof on a three-storey building and a six-storey building. The size of the roof is approximately the same, but the expense is covered by double the number of units. The painting of a two-bedroom apartment costs the same regardless of rent. To exchange the carpet in the living room of a $350-per-month unit is a relatively luxury item compared to a $900-per-month unit, but the size and quality of carpet is the same.

Our Minister of Housing said at previous meetings that he is fed up hearing about the creation of slums. Is the ministry aware of the abovementioned examples and facts, that the proposed system will lead to improvements of more expensive units and deterioration of so-called affordable accommodation?

This is some kind of treatment for people with smaller incomes. Should I say to my tenants that the government considers the existing standard good enough for them and they do not deserve anything better than cheap, cheap accommodation?

The proposed legislation does not take into consideration the age of the building or level of rent and simplifies the effect of the size of the building. It is a nice idea to simplify bureaucracy but simplification has its limits. All this shows the lack of personal experience to run an enterprise of any kind. The impact will not be noticeable for some time but it will be hard to repair it in the future.

The government is proposing to use a big stick and enforce the law by any means available. But any oppression has a short life and does more damage than good. To those who do not believe it, I recommend listening to more international news than baseball results.

I miss in the proposed law any mention of protection of owners against irresponsible tenants. This is not fair again. There are very bad tenants and owners have very limited protection. The legal system for political reasons takes sides with a tenant and if the owner tries to sue the tenant for small damages the case will be dismissed. The good tenants will find the best protection in their landlord. They are his bread and butter. The government's law is to protect bad tenants.

The government is arguing that tenants have the right to decide what repairs must be done and what is not necessary. This is based on the opinion that the premises are the tenants' homes. Our record shows that the average length of tenancy is two years. You cannot expect tenants to be considerate in managing a building if they plan to move out in two years. Their interest is only to live cheap. They are not concerned about long-time maintenance. Why should they be? It is not theirs anyway.

There used to be a deposit of money towards damages or extra cleaning of apartments after tenants moved out. It forced tenants to leave an apartment in good order to get this deposit back. One who does not care and leaves a mess behind, so tough luck to them. I do not think this system was abused by landlords. Abolition of it is definitely abused by many tenants. We have a good practice to visit some applicants for our apartments in their homes to see how responsible they are and in what area they are living.

I would throw some landlords into jail for renting horrible holes to people and sometimes for more money than we are allowed to ask for a

better class of place. But I realize that this situation is possible only thanks to rent control and its impact on the building industry.

Without rent control, those owners would never ever have a chance to rent such a badly kept-up apartment to anyone. The market would be automatically geared to needs and cost of accommodation would be on a more reasonable level. Simply, if I have lousy apartments for too high a price they will be empty, and this is the last thing any owner wants. But, as it was said by previous politicians, to abolish rent control would be political suicide in the battle for votes, so it will stay. It does not matter how bad it is until some future government has enough guts to say we cannot afford such nonsense, let's get rid of it.

1410

Mr Brown: Unfortunately, you are right. We have heard many presentations saying more or less exactly what you have said: the effect this will have on the small landlord and in particular the retroactivity provisions of Bill 4 that are not being really corrected in Bill 121. My question relates to one interesting thing that you mentioned and we have not discussed it much. This is something new that you brought before the committee, and that is the fact that your tenants on average stay two years. That is, I am told, not very unlike the provincial average. I suppose you do have some tenants who have been there for many years though.

Mr Jelinek: That is the average. I have tenants who have been living there for almost 10 years. Some tenants are moving next year.

Mr Brown: What is the rent in your building?

Mr Jelinek: Approximately $400 a month for a two-bedroom apartment.

Mr Brown: And that is a nice low-rise building?

Mr Jelinek: Anybody is welcome to come over and see.

Mr Tilson: You have raised another issue and that is the issue of the irresponsible tenant which we have not spent a great deal of time on. I am interested in the whole concept of lack of maintenance and negligence that is being raised in the act: that if there is improper maintenance or improper conditions exist, that may affect a downward turn in rent charges. Relating that to whether there has been any damage created by tenants, do you find that issue that well spread in your buildings or in other buildings that you know of?

Mr Jelinek: We had a problem this year in March. One tenant, after seven years. I never, ever had a problem like this. I called my MPP. I invited Mrs Boyd, or any of her staff, to come over and witness in what conditions we are giving apartments to tenants. Of course nobody was interested to come and see it, but I have a picture of one apartment, how it was left by the tenant after three months of living in it. This apartment was completely renovated, there were brand new storm windows, we had a brand new parking lot, re-asphalted, brand new.

The Chair: Mr Jelinek, maybe you can pass the pictures around and we can continue with the questions or we are going to run out of time.

Ms Harrington: The system that you have operated under, the RRRA legislation, we feel was not working well at all. The original rent control or rent review was instituted under the Conservative government, and then, under the Liberal government, changes were made. We feel that it seems they did not really want the system to work. Now we have a government that believes that both tenants and landlords should have a system that will work and work well and give a fair profit. We want to have affordable units and we want good units. We want protection for tenants and we are determined to make this work. And we thank you for your affordable units in this city and I am sure many other people appreciate it too. I understand you got a grant from the government as well to maintain your property so we are trying to do our part as well.

I wanted to ask you what you feel is a fair profit.

Mr Jelinek: We are just breaking even. Whatever we get, we spend, so there is basically no profit.

Ms Harrington: For a person like yourself who puts all your efforts into it, what do you think would be a fair profit?

Mr Jelinek: This is a good question. I believe the profit should be, at least as a minimum, the interest you would get on money if you have it invested in the bank.

The Chair: Sir, thank you for your presentation. We will make sure you get your pictures back. The committee is going to look at them.

Ms Poole: On a point of order, Mr Chairman: While we are waiting for the next presenters, Mr Jelinek brought forward a comment about the damage deposit. Could we just ask the Ministry of Housing for clarification as to whether this would be under the Landlord and Tenant Act or if indeed this would be under the jurisdiction of the Rent Control Act?

The Chair: Do you want the answer now?

Ms Poole: If he has a quick answer now, but if not, at a later time.

Mr Irwin: To the best of my understanding, it is a Landlord and Tenant Act matter. There is nothing in here that deals with damage deposits, but I will endeavour to clarify that situation.

The Chair: Maybe you can write us a note.

KEY PROPERTY MANAGEMENT

The Chair: The next presenter is Key Property Management. Trent Krauel, you have 15 minutes and you can withhold some time for questions and answers.

Mr Krauel: I guess I have already been introduced as Trent Krauel. I am a chartered accountant, I am a member of the Financial Executives Institute Canada and first vice-president of the London Property Management Association. I work for Key Property, together with a local London property developer.

I have not seen a copy of the directive of your committee. I understand you are seeking information to assist in

the review of Bill 121. Just backing up for a minute, I would like to suggest that one can look at the disaster in Sweden and New York City and several other examples and the history of rental units since 1975 to speculate what this type of legislation will lead to.

I would love to expand on this point, but the view I received of David Cooke when he was in London—and I apologize; there are some bitter notes there—was the false image he was trying to portray: that he was truly looking for independent views in this area. However, in a closed-door session he made it quite clear. He said, "You have your views and I have mine and I am not interested in discussing anything other than the proposals in my discussion paper." With that in mind, I only wish to stress three general points before directing my attention to the specifics of Bill 121.

The first is that the entire concept of rent controls is tantamount to attempting to prevent a cut with a Band-Aid. You do not prevent cuts with Band-Aids; you merely treat the wound with the same. In Ontario we have been subjected to re-dressing the wounds since 1976. To date, no effort has been effected towards dealing with the real issue of affordable housing for those who would otherwise require the same in a rent-control-free market.

For example, in London I understand there are about 2,000 units currently vacant. Furthermore, I understand there are about 1,300 people on a waiting list for affordable housing. Why does the government not respond to this by subsidizing the rent for the 1,300 rather than putting the problem off, claiming it is dealing with it by proposing to build these units in the next two years. I might add as well that I think the cost at which they propose to do so is ridiculous. But I am certain they will spend that, if not more. I also have to wonder how they propose to deal with the growth in the waiting list during that time. It seems to me there has been no proposal to reduce the waiting list.

1420

The second point I want to make is a general note. There has again been an obvious attempt, and this is a personal view of mine, to railroad this proposal. I ask you, what do you think the Thom commission did for four years reviewing the same issues? We have been subjected to rent controls for the last 16 years. They have been revamped time after time and after considerable deliberation of the same issues. Now this proposal has been thrown together in half a year and we are expected to believe it will solve the problems of a system that has evolved for years.

Furthermore, the Thom commission recommended rent subsidies instead of controls, but for political reasons it was put on the shelf only to collect dust. Please dust off the Thom report. It is now outdated, but it will provide a foundation that is vital to your review, from which you can update and make valid recommendations. To obtain the material available in this report would otherwise take at least four years to gather and then further time to update it.

Finally, the third general issue or point is that we need some sense of stability in the system and the way it is administered if we are to respond to it in the manner it is proposed. The retroactive legislation that had the effect of throwing out applications which were made under the laws at that time is totally inequitable and counterproductive. We, and now I am speaking on behalf of the company I work for, had planned expenditures exceeding $3.5 million under the prior legislation. This is not a plan that could have been executed overnight. Instead, we commenced in the fall of 1989 and were in the process of completing the same a year later when we were told the rules had been changed. Regardless of previous promises, it is now unlikely that we will recover even a quarter of the same.

Given the uncertainty of the market and legislation which changes without notice and retroactively, it is difficult to imagine a serious increase in the construction starts of rental units. If you want to encourage construction, we need assurances that today's promises and the plans we make based on them will not be wiped out without notice, and before we are committed to those plans. A good start in that direction would be to process the applications resulting from work committed prior to Bill 4 under the rules that were promised at that time.

Now, focusing on some specific points, where I had the time to do proper preparation—and I have to apologize; unfortunately, business takes precedence. I was dealing with some issues today and I simply set the future aside in hopes that maybe some day I will be able to deal with it. Perhaps I will try to deal with that by way of a letter to address some other points I did not have time to prepare.

None the less, the first point, the distinction between large and small buildings, might sound rational to the person on the street, but regardless of whether it is true or not, the basis on which it was proposed, in an artificial market of controlled rents, does not matter. Assume the rent for two newly constructed units, regardless of the size of the complex, was equal today; 10 years from today, the current maximum rent for the small complex would be substantially higher than the large complex. It does not stand to reason that 10 years from now people will suddenly be willing to pay more for the unit in a smaller complex, but the maximum rent for that unit will be higher, based on the current proposal.

The only way people will be willing to pay more is if it is the only unit left on the market. But we are to believe that the five-year exemption for rent controls will ensure adequate supply. Therefore, the small building will be forced to rent for less and will not benefit from this proposal. Therefore, it is not practical to attempt distinction between buildings for size, or age for that matter or any other seemingly rational basis, because the very nature of rent controls does not work.

I touched upon the five-year exemption. The flaw with this proposal is similar to the problem just outlined. If the market has vacancies, then by keeping the rent artificially low for the existing rental stock, you force reduced rents in the new stock. Only when vacancies decline will landlords be able to ask for the rents they need to fund their new complexes. New starts to provide the units required for the future will only result when vacancies are low, and that is not good. If we must have rent controls, and I sincerely oppose them, then this window should be expanded to a minimum of 10 years in an effort to give it a chance of a

positive effect. But it must also be accompanied by a sense of stability, as outlined in my opening remarks.

Another point of contention is the 3% cap. It is totally arbitrary, and that further gets compounded by the fact that if I spend X dollars today that would otherwise justify a 15% increase, under the current proposal I am now going to get 5% this year, which is really 3%, because I was already granted the 2%. None the less, that 2% was for capital, so I accept the fact that in the year I make my application I am getting 5% towards my 15%. The next year that money is spent and I have got other capital projects going on, so I have spent my 2%, but if I wanted to deal with it in my original application, so the tenants knew what to expect for rents over the next few years, I would effectively throw away the additional 5% in the second year of my 15%. As for the other 2% that I spent in that second year, I would get nothing. Finally, in the third year the 5% is gone because I am talking about a building that is greater than six units.

I think the intent of the 3% cap was to provide some form of stability to tenants, that they did not see 10% and 20% increases. I will come back to that in a minute. If that is the true intent of it, then why limit the carry-forward on these capital expenditures to two years for large buildings and three years for small? Why not have an indefinite carry-forward? You still maintain the stability of the maximum 3%, which I do not agree with, but you have maintained the stability that I believe was the point of that 3% cap.

I think some serious studies should be done as to the merits of the 3%, whether it is fair or not. Certainly 2% a year towards capital expenditures sounds more than reasonable to the person on the street. But Ontario has a tremendously aging stock of rental units and I do not believe the 2% will be adequate in the future.

I would like to talk briefly about the effect of work orders. As I understand it, if a work order is issued against our building, regardless of what efforts we are making to deal with that, if we do not deal with the work order—ie, extinguish it within 30 days under the proposed legislation—we will not see any increases until we do so. Again, I guess the intent of that was to ensure that, first, they did not even allow themselves to get into a situation of work orders and, second, having got into that situation they respond to them and do not ignore them. That sounds fair enough on the surface of it, but the reality is that from time to time there are disputes about the validity of a work order. There are no provisions for that in the proposed legislation.

Second, sometimes it is just not practical to solve a problem in 30 days. Whether it be the size of the problem, whether it be a labour strike in the industry that is being affected, whether it be electricians, plumbers, bricklayers, roofers, 30 days is not practical. There has got to be a provision with this kind of proposal for adequate efforts towards dealing with a work order as opposed to a flat out: "If you don't deal with it in 30 days, tough luck. Kiss your increases goodbye."

In closing I will ask you to read—or, if you already have, to re-read—the Thom commission report, which recommended phasing out rent controls and promoted a system similar to that practised in British Columbia. We know it is a sour pill to hand out, but it is good medicine.

I have already presented a copy of both volumes I and II of the report and will cut short my presentation at this point in time.

1430

The Chair: I have to remind committee members that we have less than two minutes for questions and answers, so we are going to ask for very short questions and very short answers.

Mr Winninger: You are right, London does appear on the surface to have a very high vacancy rate, over 3%, but a recent study called Living in London by the United Way indicated that the supply of affordable housing is much lower than that.

Your suggestion was for the government to subsidize rents to be paid to landlords, and you are probably aware that this is already being done to a limited extent with rent supplement agreements administered through the London and Middlesex Housing Authority.

Mr Krauel: We have some buildings in that category.

Mr Winninger: Yes. However, to inject the kind of money it would require to subsidize all of the units that are not affordable now to make them affordable would drive the deficit up even higher. Is that something you are looking for us to do?

Mr Krauel: I am not convinced that it truly would drive the deficit up. I have seen what they are proposing to spend over the next few years. If you look at that versus subsidized rents, maybe it does not seem to justify it, but what people fail to recognize is that those proposed building starts are going to carry on. They are not going to stop at the end of the two years.

Mr Brown: I am interested in your comments about the 3% cap and the carry-forward. I really do not have a question for you, but I do have a question for the ministry which I think you would be interested in. I would ask the ministry, when they meet with us next Tuesday, to bring forward their information on how much the 3% and the cap as it exists in this legislation will lever in terms of capital improvements to Ontario's buildings, and how they arrived at that amount and why we need 3% rather than 4% or whatever. Give us some logic for that. I think you would be interested in the answer also.

Mr Krauel: Absolutely.

Mr Turnbull: Unfortunately, I think this horrible piece of legislation will pass, because they have the numbers. Given that fact, do you not think it would be more appropriate to have some differentiation between old and new buildings, if you are going to have a differentiation in terms of the rate, as opposed to between small and large?

Mr Krauel: Perhaps I did not make my point clear enough. I am not trying to propose whether there should be distinctions between old and new versus small and large. I think that in itself would open up a phenomenal debate. My point was that to make these distinctions is ludicrous, because if you are controlling the market, we start out today with the rent for a brand-new unit in a large complex,

$500, and we market the similar unit in a small complex for $500 because that is what the market will bear today. If we then make distinctions and say that units in small complexes can increase more each year, 10 years from now that small complex is going to cost more. Why will the market 10 years down the road, suddenly justify more for that? If we have artificially deflated the rent in the large, it will not work.

The Chair: I am afraid that it is all the time we have for this witness. Thank you for coming before us today.

Ms Poole: While we are waiting for the witness, could I please ask for an addendum to Mr Brown's request to the ministry?

The Chair: Okay.

Ms Poole: Would they also provide us with an explanation of the cost pass-through, why it was limited to one year for large buildings and two years for smaller buildings and what the rationale is in limiting the cost pass-through to those two sets of years?

The Chair: We will certainly try to get that information.

LONDON AND DISTRICT LABOUR COUNCIL

The Chair: The next witness, London and District Labour Council.

Ms Bell: My name is Sandy Bell and I am an executive member of London and District Labour Council, representing 25,000 members in the London area. I am employed at Ford Motor Co in Talbotville and I am a member of the Canadian Auto Workers, Local 1520. I am also a tenant.

I had the opportunity in March of this year to submit a report to the Ministry of Housing during the public meetings that crossed the province. It is heartening to know that our provincial government is taking steps to try to arrive at a fair piece of legislation that addresses some of the concerns that both tenants and landlords raised at that time. We recognize that rent control is a double-eged sword. With that double-edged sword in mind, I am going to comment on some of the main features of this legislation, and I am going to try to be brief and to the point.

Prior to the proposed changes to the act, party policy was that annual rent increases would be no more than the rate of inflation. We now find that increases are to be calculated by a portion of a rent control index based on the rate of inflation, plus a 2% allowance for capital expenditures, and in addition, landlords will be able to apply for increases up to 3% above the guideline in certain circumstances.

While 3% might sound like a modest rate, it is a great deal to families living on the average industrial or service wage. The reality is that tenants have even less means of keeping up with the inflation rate than landlords do. The problem here is that wages are not going up as fast as inflation. In fact, the real wage has declined in the past 10 years.

It is definitely a progressive step that government is acknowledging the differences between landlords with many units and the landlord with only two or three units. However, the tenants in these smaller buildings are in effect being penalized because they do not, for whatever reason, live in the perhaps lower-priced larger buildings.

Landlords are allowed now to apply for increases in the event of higher heating, hydro or water costs. What about the tenants, though, in many town houses and apartments who pay their own utilities? There is no protection for them. Keep in mind that London water costs may go up by as much as 44% in the near future. Many of these units are heated by electric baseboards, and hydro bills can be as high as $300 in the winter months. There does not seem to be much sense in subsidized housing with utilities this high. Maybe we could have some money set aside from the Ministry of Energy as an incentive for conversions to gas or cheaper methods of heating, or perhaps tenants could get some kind of a rebate on their heating costs.

It is also a step in the right direction that landlords have to be more accountable for the repairs being done. It seems that this legislation will prevent a lot of the past abuses of the system that led to high increases. It should encourage the serious landlord while discouraging the people who would buy properties with a small investment and pass on the high cost of financing in a quick sale. It is a sad fact that some people in the "landlord business" forget the human element involved in it, and that these rental units are not just investments but people's homes. Landlords not being able to claim any increases until work orders are completed should help to improve many people's living conditions much more rapidly than before, but taking this one step further, we need to educate the public on what is an acceptable standard, and how and who to complain to. Ideally, a province-wide system for standards should be implemented.

The new system designed to resolve differences between landlords and tenants seems to be more streamlined and efficient, although there is still a need to assist tenants to organize and educate themselves on this and other related legislation. A single tenant on his or her own does not always have the knowledge or expertise to go up against large development corporations or landlords with clever lawyers.

Regarding the five-year exemption from rent control on new buildings, I guess the question here is, will it stimulate investment and employment? A few months may be a little early to tell, but I think the number of building permits issued for rental housing should be closely monitored from year to year, and if it proves the five-year exemption is not doing what was intended, then it should be removed. At the least, long-term leases could be offered to give tenants in the new buildings some protection.

The system to allow tenants to get key money back and for reduced rents when services are withdrawn or maintenance is poor should be applauded. Finally tenants have some leverage when dealing with unscrupulous landlords.

When you speak of rent control, it is not an isolated subject, so if you do not mind, I would like to digress for a moment to make a few points on some peripheral areas indirectly affected by rent control.

Many non-profit housing groups end up hiring property managers from Toronto or other cities, and it ends up much like the famous absentee landlord situation. If these

non-profits were turned into co-ops, the tenants could manage their own affairs.

We are all concerned with urban sprawl. Of the 30 or so co-ops in London, only one is downtown. Construction on the second is just starting. London is classified with smaller towns in the area, such as Woodstock, Strathroy and St Thomas, as far as land costs go, which puts our maximum unit prices for construction, or our MUPs, way out of line for downtown land costs compared to the smaller towns. If cities of 300,000 or more could have non-profit and co-op MUPs changed to reflect Toronto, then underdeveloped downtown areas could be utilized, helping with the urban sprawl problem.

With rent control legislation in place, government has a responsibility to build more co-ops and non-profit units to offset the decline in rental housing by private developers. This would also give tenants more options in the housing market.

We have reviewed the section in this legislation on regulations and sincerely hope that the spirit of this legislation will not be subverted by these regulations. All in all, we feel that this is a comparatively good and fair piece of legislation. It is good to see a start being made and we will continue to work and lobby for affordable housing for all. Thank you.

1440

Mr Tilson: I am looking at the name of your organization. I assume it has something to do with employment as well. We have had landlords, owners, construction and concrete people come and say that thousands and thousands of jobs have been lost. Restoration projects have stopped, maintenance projects have stopped, capital improvements have stopped because of the provisions of this legislation and thousands of jobs, many of whom are held by tenants, across this province have been lost because of this legislation. I would like you to give me your comments, as a result of the position that you hold, as to how we would encourage the government to encourage owners of buildings to get back into the business of restoring their buildings and maintaining their buildings and putting capital improvements in their buildings to get many of these people back working again.

Ms Bell: I am not an economics expert, but I think the transitions allowed for in this legislation for people who have started improvements are quite good.

Mr Tilson: We have faxes coming to us that say the jobs have stopped. The projects are not proceeding. They are being cancelled.

Ms Bell: My personal view is that I think it is a little bit of sour grapes on the landlords' part; they are just trying to arouse the public's sympathy. The jobs are being lost all over, not just in that area.

Mr Duignan: Thank you for coming and making this presentation this afternoon. In your experience as a tenant, how do you feel this new bill will affect tenants? Do you think it will be more fair than the previous piece of Liberal legislation?

Ms Bell: Yes, I do. I think it gives you more options and more ways to deal with the landlords. Granted, there are not a lot of bad landlords, but the ones who are make it difficult for a lot of the poorer people who cannot afford to live in the higher-priced buildings, and they are the ones this legislation is going to help.

Mr Duignan: What would be your main concern in relation to Bill 121, and what would be a recommendation to change that?

Ms Bell: I guess my main concern would be the increases. I am not sure how the increases are going to affect buildings that already have been given rent increases because of previous construction and things that have been done, and I am not clear on how that is going to affect future increases, whether the other percentages now added to what they have already been given will be large. That is one part I am not clear on.

Mr Brown: I want to pick up on what Mr Tilson was talking about. We had the Toronto-Central Ontario Building and Construction Trades Council in front of us telling us that they had lost construction jobs, not as a result of the recession but rather specifically as a result of Bill 4. We had concrete restorers tell us this.

What particularly they suggested, and this is the trades council, was that for concrete restoration work, which is megabucks when you are fixing a concrete garage, the pass-through allowed in this legislation just will not work, it will not allow those things to happen. Those were their words, not the landlords' words, not Liberal or Conservative words. I wonder what your membership thinks of that, both tenants and people in the construction trades.

Ms Bell: I am not sure I can relate to what Toronto is doing, but I think that in a lot of cases if these garages and so on had not been allowed to get into the state of disrepair they are in, they might not have had this problem.

Ms Poole: The expert testimony has said with regard to underground parking garages that it had nothing to do with the state of disrepair. It was at the time of the construction, which was basically in the late 1960s and early 1970s. They did not then have the technology to do it properly and did not even know it at the time. Now the salt has gotten in and corroded. So it does put another face on that particular problem.

LONDON HOME BUILDERS' ASSOCIATION
NORQUAY HOMES LTD

The Chair: Norquay Homes Ltd. We will be following the same procedures: 15 minutes, and you can withhold some time for questions if you wish.

Mr Howe: My name is Michael Howe. I am speaking to you today on behalf of the London Home Builders' Association and my own company, Norquay Homes Ltd. The London Home Builders' Association represents more than 200 builders, renovators, subcontractors, suppliers and related professionals in the residential building industry in London. Norquay has constructed in excess of 1,400 rental suites in and around London over the last six years.

It has always been our intent to go into the residential business for the long term. To accomplish that we always understood and expected to have large losses in the early years of operation of the buildings we build, knowing that

as time went on and rents slowly increased under the old legislation these losses would end and eventually we would earn a reasonable return on our investment.

During the course of formulation of this new legislation, the concept enshrined in the old legislation—that 1% of the rent increase was for capital replacement and 1% was for the owner's return on equity—was lost. It was replaced with a new dictate that this 2% portion of all rent increases must be used for capital improvements. This sleight of hand guarantees that buildings which are presently in a money-losing position will continue that way indefinitely.

Some committee members may recall that when I spoke to this committee last January regarding the proposed Bill 4, I said that we had put a hold on further construction of new rental projects until we had a chance to review the final rent control legislation. Given that the present Bill 121 will become law in the very near future without significant change, we have decided that we will no longer construct any new rentals in the province of Ontario. The human effect of this decision, which I assure you was not taken lightly, is that 48 employees presently on temporary layoff or on work-share will be laid off permanently. We no longer have any prospect of providing employment for these people.

I do not need to tell you the catastrophic effect that this decision has for the employees and their families, many of whom have been in our employ since the early 1980s. With the economy in its present shape, these people have little or no prospect of finding work and many will soon be facing the end of unemployment benefits. We planned to construct two more rental complexes this year and would have been in a position to recall most, if not all, of these workers. These rental complexes will never be built because of the misguided, ill-conceived and punitive legislation that you are now reviewing.

I have spoken to many others in the business of providing rental residential accommodation who are as concerned with this piece of legislation as I am. They too have indicated that they will not proceed with any new rental projects. Do not let today's 2% and 3% vacancy rates lull you into complacency. These vacancy rates, just like the 5% and 6% rates in 1981, will evaporate within two years. Before the next provincial election this province will be faced with a residential rental crisis more severe than anything we have witnessed to date, and the government will have no one to blame but itself.

Let me explain to you, for example, just how this legislation has affected one of our complexes. It is a 22-year-old, 130-unit town house complex. In late 1988 a review of the complex with the property manager indicated that all roofing should be replaced, as it had reached its life expectancy and could no longer be repaired on a satisfactory basis. In addition, the original site lighting installed by the then owners in 1969 was felt to be less than adequate from a security point of view. Again, most of the underground cable had exceeded its life expectancy and was continuously failing, causing night-time blackouts of portions of the site lighting. Exterior soffit, fascia and window frames needed to be painted, as bare wood was beginning to show on most of the window and door frames. If left unattended, this would result in rotting of frames, requiring complete replacement of windows and doors—an unacceptable situation.

1450

The work was contracted and undertaken during the spring and summer of 1990 and completed in its entirety in September 1990. This work was undertaken and completed in accordance with the legislation in place at the time. We were advised by our solicitors that we would be entitled to a rent increase of 4.1% above the guideline or approximately $24 per month per unit. This work and application was supported by our tenants at an information meeting held to discuss work that both we and the tenants wished to see completed.

Based on the legislation that was in force, we would have had a first effective date in 1990 for this rent increase. Unfortunately, just as the work was being completed, an election promise of this government resulted in retroactive legislation that wiped out this rent increase. And this, notwithstanding that the work was completed in accordance with the law that was in force, that the application for increase was made in accordance with the law that was in force, that the money to pay for this work was borrowed on the basis of legal increases that would have started in late 1990—we are now making payments on that loan without the benefit of those rent increases—and that the application for a rent increase can only be made after the work is completed.

"Don't worry," the then-minister said of Bill 4. "It is only temporary. We will see that you get your increase under the new rent control law." Let me tell you how we are being looked after under this new rent control. Based on the law that was in force, that we followed explicitly, we would have received total increases of $42,217 starting in late 1990. Under the proposal before you today, we may see an increase of $24,000 starting in June 1992, with a carry-forward increase of $14,000 starting in June 1993. However, it is unlikely that we will see all or even much of these increases. For an order to be eligible, we would be required to complete an additional approximately $100,000 per year of capital work in addition to that which we have already done.

Unfortunately, the new legislation does not consider appliances, flooring, carpeting, cupboards and new shower tiles as capital improvements. That is the work that we are now trying to complete and the work that our tenants are much more interested in seeing completed. Let's face it, tenants do not care about new pipes, structural members or roofs. They are more interested in the carpets, flooring, cupboards and showers that are inside their home and that they live with every day. Unfortunately, if you do not fix the roof first, there is not much sense putting in new floors or carpets. It will only get destroyed and the structure will rapidly deteriorate.

If you do nothing else to this legislation, make sure that you include these items specifically as capital. These are the things that our tenants and customers want to see done.

If one were to analyse the logistics of completing $100,000 per year of capital costs in this complex and

financing them by way of some form of secondary financing each year, there will by its nature be a floating rate instrument. Presumably on the five-year anniversary of the first mortgage, one would try and roll this into the fixed-rate first mortgage financing.

It all sounds logical until one looks at Bill 121 and finds out there is no pass-through of increased costs if interest rates do in fact increase. The inability to pass on an increase would make this whole scenario of secondary financing and renewal a financial nightmare, and in all likelihood impossible from a practical point of view. What financial institution would loan money under such circumstances?

All that aside, the government will tell you that it is going to get builders to construct new rental complexes by allowing the five-year exemption from rent control for new complexes. My company and many others were induced to start building rental complexes in the late 1970s when the government of the day declared that buildings constructed after 1975 would be exempt from rent control. These buildings were retroactively covered by rent control in 1987 without warning. My company and many others like it were encouraged to complete capital improvements in 1989 and 1990, only to have our rent increases retroactively denied after we had completed the work in good faith and expended millions of dollars under the current law of the day.

Just how many times does the government of the province of Ontario think it can abuse the industry? My company, for one, will construct no further rental accommodation in Ontario until some old-fashioned common sense and fair play is put back into the rules of operation. Quite frankly I do not believe that many other builders in this province will be lured back into building rental residential accommodation until this legislation is dramatically altered.

Mr Mahoney: I would like you maybe to expand on what it is you would need to see changed before you would alter your corporate decision to stop building—recognizing that, frankly, all three parties have been involved in the creation of rent controls or exacerbation thereof in one way or another. What kind of changes would you need to give you the level of confidence that common sense would be brought back?

Mr Howe: I am not sure that there is a very short, fast answer. There are so many problems with the legislation, starting just with the 3% cap, that it does not permit capital expenditure, that the 2% supposedly now included in all rent increases does not include the things that tenants want most. If we are trying to do a 3% capital project that is legitimately capital, and simultaneously satisfying our tenants' requirements for new carpeting and flooring, those items are not even going to be allowed to be included in that 2% calculation. How can we do it? The money is not there. There is no magic to this business. It costs money to renew.

Mr Mahoney: So your biggest interest would be an expansion of the items that would be allowed. If that were done under the definition of capital, are you suggesting that this bill would then be acceptable?

Mr Howe: No. I think there is a lot more wrong with it than that. The search-and-seizure provisions. The fact that one tenant can hold up all the rent increases for a building for ever—they will never be reinstated—over what could be a very minor maintenance issue, allows so much abuse of the system. We support the fact that there are bad landlords. They are out there. We know them and they need to be controlled. We do not have a problem with that. But the things you have done here are going to allow such abuses of the system that the average landlord simply cannot cope.

Mr Tilson: It has become more and more apparent that Bill 4, and now Bill 121, do benefit the rich or, as the government refers to them, the bourgeois. But clearly people with high rents think this legislation is wonderful because the higher rents are frozen. My question to you, in your capacity as a member of the London Home Builders' Association, is why would people in that category, the higher rents, leave and buy homes or build homes? So the whole housing industry is affected by these two pieces of legislation. That has been alleged in other parts of the province. My question is, do you notice any trend starting in this part of the province?

Mr Howes: I think it is even more apparent in lower rent units. If a person has a fixed rent of $500 that includes their hydro, their taxes, their heat and all the costs of living in their shelter and it is controlled at such a low level, why would they even consider going out and paying $1,000 a month to have a house—plus having to pay hydro and gas and subject to 40% increases in their electricity bills over the next three years—when they are totally sheltered from the realities of the world?

Ms Harrington: I would point out that if people can save money in rental accommodation, then hopefully they will be buying homes if they can save a down payment. We are open to amendments on this legislation just because of the reasons that you are saying. We do not want abuses of the system. We want it to work. We want it to work fairly. Do you also build homes?

Mr Howe: Yes, I do. That is our primary business.

Ms Harrington: When was the last time you constructed rental units?

Mr Howe: We finished our last units in December 1990, our last two projects.

Ms Harrington: That is good to hear. The situation you were talking about with the renovations to kitchens and bathrooms and these types of things, you are saying they really wanted this to be done. What kind of increases in rent did they face?

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Mr Howe: Speaking in general terms, the cost of replacing carpet and appliances in a town house is something in the order of $2,500. That would be in the same order of the capital work we had already done, what we felt was of primary concern, the roof and structural work, and would probably have resulted in the following year in a similar 3.5% to 4.5% increase. We discussed this with our tenants. They understood that and they were happy with it. This is

something they want to see done. The units are 20 years old. The carpet is lovely in most cases except that it is orange or lime green. It will start to show wear on stairs and things.

Ms Harrington: Just to clarify, you said you would be charging them a 3% increase?

Mr Howe: In addition to the basic guideline increase. It would have been approximately 3.5% to 4.5%. The problem is that this legislation does not allow us to declare those things as capital.

CARLTON GROUP

The Chair: Our next presenter is the Carlton Group. We will be following the same procedure, 15 minutes, and you can withhold some time for questions and answers if you wish.

Mr Wolf: I am Norton Wolf, president of the Carlton Group. It would come as quite a surprise to me if our government came to me and said, "We'd like to retain you as a consultant." However, I believe that is exactly what should happen because of the experience, the background, the education I have had, a lifetime in this business. One of the things I would promise in such a case is that I would not dwell on the benefits or the evils of rent control, but I would dwell on the basic philosophy of rent control as we know it in Bill 121.

First of all, if I were consulted, I would like to make it very clear to my clients that they should never delude or deceive themselves that there is going to be any major political value in passing such a law. I know and I have heard—and I do not think there is anybody in this room who has not heard it a million times—that there are more tenants than landlords. That would imply very clearly that anything that is done is done for political expediency. That is not so and I would like to prove to you that is the case.

Generally speaking, we are looking at three players: the landlords, the tenants and municipalities. With the municipalities, I mean pretty well all the people of Ontario.

When we talk about the landlords, I am not going to even get into that because it would be akin to an innocent party being led to the gallows and falling in love with his executioner.

The tenants fall into two categories. We have those who are truly in need, and they are defined as individuals or families who pay more than 30% of their income for rent. Looking at that group, on Wednesday, August 7, 1991, the Toronto Star had an article "Business Finds Rent Review Bill 'Chilling'." In that article, the former Housing minister, Dave Cooke, introduced the proposed system saying, "Ontario's tenants will have the best protection in Canada." Actually, they will have the best protection in pretty well all the western world.

The next paragraph says: "However, tenant groups heard from yesterday said they were also disappointed with the bill. 'It will only result in more homeless people if landlords are allowed increases,' said Marnie Hayes of the Ontario Coalition Against Poverty."

The point I am making to the NDP government of Ontario is that if these are the people you are playing to, if this is the market, they are coming out publicly and saying, "We're not happy, it is not enough." Basically, if you cannot afford rent, you cannot afford it. It does not matter if the rent is artificially held down, if improvements are not allowed they are going to have a problem with paying the rent and they are saying so. There are cases, I am sure, in the marketplace who cannot afford any rent. So this is not going to work.

By far the vast majority, 73% of tenants, are not heard from a great deal. They are professionals who are paying less than 30% in many cases; the majority less than 20% on rent. They are very concerned about the level of accommodation they are living in. They want a good rapport, they want to have a relationship with the onsite people, with the landlords. They want improvements to come along. They would like to see fresh new furniture in the lobby, new carpets and so on. They do not mind a moderate increase. They realize, sure, if they can get a bargain, great.

I do not think any of us in this room would not complain about the price of gasoline, but if it were put to us, "We will drop the price of a litre of gasoline one cent, but we will not repair the roads," I do not think we would be too happy. We would say: "Okay, let's leave it as it is. We want to drive on improved roads." This is a similar situation.

The municipalities are a different story. They are being hit exceedingly hard these days with escalating costs. We have already heard of the additional burden that is going to be borne by the municipalities with the pass-through of the addition to the welfare costs.

The cities are hit basically in two areas. There is very little—and chances are, with the implementation of Bill 121, almost none—new construction in apartment buildings. Second, as the values decrease in the apartment buildings—and they are decreasing; economists and appraisers say as much as 40%—eventually, and it will not be that long, those decreases in value will be passed on as lower taxes to be paid to the municipalities. The municipalities cannot expect increases in apartment buildings if in fact the apartment buildings are devalued and if the owners are having financial problems in meeting their obligations.

So the burden is going to be on (a) the home owner to make up the slack, and (b) small business, neither of which municipalities are happy to see. If they are not aware of it now, they are going to be very aware of it in the next four years.

To sum up, we are seeing who really are the targets, who are the beneficiaries of Bill 121. I cannot see it as a bill that is going to improve the social or economic life of the people of Ontario. If a very small group is going to get the benefit, maybe that is the minor area being targeted. The total picture is one of who is getting the improvement and where is the target of the government in this bill.

Ms Harrington: Thank you for coming. I want to let you know we are here to govern for all the people of Ontario, not just a particular group. You are right when you say some people cannot afford any rent increase at all, we realize that. The housing picture in Ontario is much larger than strictly rent controls. We have to look at providing places for people to live who cannot afford any rent increase. That is why we are dealing with non-profit housing

and the Ontario Housing Corp. Now we are beginning to look at this, after being in government 10 months or so, and how to improve it.

We want to encourage housing starts as well. What has happened in the last 10 years—and I am sure everybody in this room and beyond knows this—is that there has been land speculation. The cost of land has caused a lot of the problems, even in the rental market in Ontario, especially in Toronto and other larger cities. There has been a lot of abuse in the past. We cannot rectify the sins of the past as a new government, but we have to start from where we are now and govern in a manner that is equal for everybody in this province and try to get a good system, and it is very difficult.

1510

Mr Wolf: I can appreciate what you are saying. Land speculation is an area I find difficult to justify. Basically, it is a supply and demand situation, but that very supply and demand situation is why a free market system works best when it comes to apartments. The free market—

Ms Harrington: Free market and speculation, then.

Mr Wolf: You have to understand the psyche of developers. They really want to develop, there is no question about it. It becomes a part of their life, it becomes an excitement and they will overbuild, I guarantee you, and I can show it over and over again, allowed free rein they will overbuild. They will overdevelop and as soon as you get a marketplace with a surplus of supply, prices are going to come down. Free rents are going to be offered, all kinds of incentives are going to be offered. There is no question. This is one of the areas you must try to look at very clearly. There is now at least a two tier- and maybe a three-tier system in rentals. When you get that lower tier not moving up, it is all part of a socioeconomic system. The lower-tier people stay there because they have such a bargain they do not wish to move.

Mr Mahoney: I think your chances of being hired as a consultant by this government are somewhat remote, but I did enjoy your presentation. We heard the real answer, the real agenda here, from the parliamentary assistant who talked about land speculation—I believe I am pretty close to quoting her—and she said, "especially in the city of Toronto and large urban areas." It seems to me they have drafted a bill to resolve some perceived problems by some specific interest groups in some of the larger urban communities. There is no question that we saw examples of very unfortunate problems in some parts of the city of Toronto and other parts as well. As a result, they have simply drafted up legislation on a province-wide basis to solve the problem. Do you know of any of these supposed horror stories that—

Mr Duignan: What did you do in five years?

Mr Mahoney: I love it when they get excited. We hear the justification being the marble lobbies and all the great expenses and exorbitant amounts of money being spent driving people out of their homes, economic eviction and land speculation. Do you know of any of those kinds of stories here in London?

Mr Wolf: I know of no story of that nature here in London, no.

Mr Mahoney: Would you anticipate that land would be any kind of a speculative nature? Would you buy land for speculative purposes, in other words, to flip in the London community, or would you buy it for perhaps long-term economic viability and development purposes?

Mr Wolf: If I were buying land it would be with the idea of having a development for that land. That incidentally is true in Toronto. Do not misunderstand me, there are some land speculators right now in Toronto who are getting very badly hurt. The more you pay the more it costs you for carrying costs, and the more it costs you for carrying costs the faster you have to do something. These guys are getting hurt.

Mr Mahoney: If you take your hypothesis and your explanation of who is affected, etc, can you explain to us what the agenda might be? Are the people drafting this legislation on behalf of the NDP—I do not mean to be unkind—stupid? I would hope not. Or would they have some kind of an agenda that perhaps we are not familiar with?

Mr Abel: That's a leading question.

Mr Wolf: As a consultant.

Mr Mahoney: Yes, as a consultant, absolutely. I do not think it was a leading question at all.

Mr Abel: He needs a crystal ball to answer that one.

The Chair: A very short answer.

Mr Wolf: All right. I talked about political expediency. They made promises. Whether those promises are logical or sensible or not, they are going to have to try to fulfil those promises.

Mr Mahoney: They're not even keeping them.

Mr Wolf: There are those who think they are not.

Mr Tilson: The question I have for you is with respect to subsidies of the poor or lower-income groups. I would like to hear your comments for or against, or both, with respect to that subject.

Mr Wolf: I believe there should be a rent supplement to those who are truly in need. The money would come from the savings in costs, the very onerous cost of rent controls. Far beyond just the cost of administration, rent controls are truly costing the taxpayers of Ontario a mad fortune. If you took 50% of today's cost for rent controls and gave it to the people who really need it, instead of holus bolus—why should a wealthy person living in Grosvenor Gate, for example, in London, a beautiful apartment building, be subsidized, but not the poor guy with a blue-collar job who is busting his butt to pay his mortgage because he has three or four children, works on an assembly line, but he owns his own home? He is not getting these benefits.

Mr Tilson: I agree.

Mr Wolf: But they are. Definitely support those people, but the money has got to come from within. The money is being spent poorly now.

Mr Tilson: The socialists will tell us that the cost of subsidies will far exceed the cost of rent control. That is what they will tell you.

Mr Wolf: Only if they subsidize people who do not deserve to be subsidized, which is what is happening now.

SOUTHWESTERN ONTARIO TENANTS ASSOCIATION

The Chair: The next presenter, Southwestern Ontario Tenants Association, Susan Mellor. We have been allotting 15 minutes for presentations. If you wish, you can withhold some time for questions.

Ms Mellor: I am choosing to respond to only a few points in Bill 121 and I will illustrate my concerns about those points through a particular building whose tenants I am working with right now. I chair a regional organization of tenants and tenant associations. I also work privately as a rent review consultant for tenants. I have a background working with university student government in student housing problems and I sit as vice-chair of the access to housing committee in Guelph and so have a background with people who are on the most severe end of what happens in the affordability crisis.

I am currently working with tenants on a volunteer basis in a building in Guelph. It is a low-income rental building. Last year the landlord applied for a 25% rent increase for capital expenditures. The capital expenditures included putting a roof on the building, paving the parking lot, putting a new boiler in, redoing the plumbing in all of the building, redoing all the windows, doing balcony work, redoing a laundry room, basically reconstructing the building.

The landlord simultaneously applied to change the hydro meters over from a bulk meter for the whole building to individual meters for each tenant. The tenants in the building are comprised of very elderly people on lower fixed incomes, low-income families, many of whom are waiting for positions in subsidized social housing, and low- and fixed-income single people. The education level of the tenants in the building is very low, on average, and some have quite complex problems other than income and education.

1520

The building has been owned by the same landlord since it was built 23 years ago, and since it was built, no major capital expenditures have been done on the building and no major maintenance work has been done on the building.

Now, of the issues that arise around Bill 121 concerning this building and where it is in the process right now, for the tenants in this building, the first issue is that of tenant consent. It is considered by people with whom I work that the tenant consent provision in Bill 121 is dangerous. It is dangerous to tenants. Under the RRRA certain provisions were made for tenant consent. Those regarding changes in services and facilities require tenant consent. One of the services and facilities, for instance, would be the hydro metering. Tenant consent in this building when the meters were changed over last year involved getting a notice from the landlord, saying: "Your hydro is going to be shut off on the first of next month. You'd better get down to hydro and turn it on." Those tenants who were frightened or unknowledgeable did so, without realizing that they had the right not to consent.

The important thing is, consent is good. No tenant would say he would like things done without his consent, but it has to be accompanied by increased tenant protection as well. Otherwise, consent is going to involve coercion. What that has meant to the tenants in a subsidiary way—this changing over of meters—is that the landlord has estimated an average $15-a-month reduction in their rent to compensate for the metering, but those who have changed over are paying approximately three times that now for their hydro, because of the different rates for individual metering and because each one of them is paying an administrative cost to the hydro authority. That is an affordability issue as well, I think.

The same thing happens with tenant consultation. The changes last spring or a year ago last spring requiring consultation with tenants are meaningless. Tenants are informed but what can they do with that information? They need to know that under the old legislation, there was nothing they could do. They could only be informed and leave if they did not like it. I cannot see that Bill 121 is making any difference in that.

The second issue for tenants is tenant involvement in the process or the procedures under Bill 121. It is section 59 that I am referring to in particular, that tenants have 30 days to request a hearing. Unless tenants are already organized they are not going to take advantage of that. They will not know what it means, and they will not know why they should request a hearing because they do not know what the difference is, what the advantages are, what kind of input they might have. For instance, in the building I am talking about the landlord submitted September 1, 1990, for his capital expenditure increase. Only two of the 72 tenants in the building had sufficient education, confidence and concern to even respond in any way in writing to the ministry, and their responses are completely off the mark as far as the legislation is concerned because they do not know what the mark is. They do not know what they should be responding to and how. Again, I see no improvement in Bill 121.

I have a specific recommendation for this provision: that tenants be given an amount of time after they have been notified by the ministry that the ministry has received the application from the landlord; that the notification from the ministry briefly summarize for the tenants why the application has been made; and that the notification have a mail-back request included with it, so that all tenants have to do is sign it if they want a hearing. I think what happens and what has happened in previous legislation is, if you look at the forms that are provided to landlords, all landlords have to do is fill in boxes, check off other boxes. Tenants have to actually compose something to write, and I do not think that is fair, particularly in that many landlords have staff to compose things and to fill out these forms. I would like to see some kind of mail-back, some initiative on the part of the ministry to ensure that tenants are involved in that process.

I am pleased to see that the financial loss allowances are gone, but regarding capital expenditures and capital

allowances, under section 12, the 2% allowance in the guideline, there was, under previous legislation, an amount for capital expenditure in the guideline every year, but no one ever asked the landlords if they spent it or not. So they took it as a gift, some of them. Some of them were very honest. Some of them made capital expenditures without ever going to rent review. I do not want to put a blanket on everybody, but when someone does come for a rent increase on capital expenditures now, he should be required to account for that 2% in previous years. That is easy. It is in landlords' interest to separate out their capital expenditures, capital costs on their income tax every year. It is in their interest to account for those separate from income and maintenance expenditures, operating expenditures. They have that information. It is not onerous; it is not a burden. They already do it.

Ms Mellor: One last point is on the issue of neglect. It appears to me that under section 15, clauses 15(2)(a) and (3)(a) contradict each other. Clause 15(2)(a) says that an eligible expenditure would be one to restore the building's integrity, whereas clause 15(3)(a) renders an expenditure ineligible if it is caused by neglect. Why would you have to restore a building's integrity if you had not neglected it? They do seem to contradict each other.

Mr Stockwell: This building you are speaking about in Guelph, are any of these particular renovations or capital improvements he is doing caused by neglect?

Ms Mellor: If a building has not had anything done to it for 23 years, I would say that everything is caused by neglect.

Mr Stockwell: Okay. I understand the answer. So you would be in favour of the landlord doing these capital improvements?

Ms Mellor: I would be in favour of the tenants being in active consultation, empowered consultation with the landlord over them.

Mr Stockwell: But that was not the question. The question was, you would then be in favour of the landlord doing these, considering it has been 23 years since he has done any major improvements.

Ms Mellor: The ones that are necessary for health and safety, yes.

Mr Stockwell: Roof, boiler, windows; it appears that most of them are. So then, contrarily, could I assume that you would be in favour of a 25% increase?

Ms Mellor: No.

Mr Stockwell: Why?

Ms Mellor: Because the landlord has owned this building for 23 years. He could have been doing a number of these things over the years.

Mr Stockwell: But would that not have meant they would have got increases previously?

Ms Mellor: No. Since we have had rent review legislation, he has been given an amount in his guideline increases every year—

Mr Stockwell: Oh, I see.

Ms Mellor: —and over the 23 years, he has already got 25% for capital expenses.

Mr Stockwell: So in the 23 years he has owned this building, his increases he has passed on to the tenants.

Ms Mellor: They have all been guideline increases. This is the first time he has been to rent review.

Mr Stockwell: Do you know what those increases would be?

Ms Mellor: Even if he is allowed 1% over 23 years, that is 23% for capital.

Mr Stockwell: What about inflation?

Ms Mellor: On what?

Ms Harrington: You made some very good points. The first one I noticed was that you are in favour of consent but not coercion, and that is certainly something we will have to look at in more detail, how that can be accomplished. Further to that and the whole idea of trying to empower tenants, you mentioned the word "confidence." We can see even in our presentations how important it is. The whole question of how you do that is very difficult. The committee you sit on, the access to permanent housing committee, is hopefully part of that process. I would like to compliment these committees. We have seen them in action in various parts of Ontario. It was an initiative of the previous Liberal government, and I think a fine one, and I hope it will continue.

But any help or any suggestions about how to empower tenants is something that I think will give a real balance here, and if landlords and tenants can deal with each other, then hopefully the government is not going to have to get as involved, as we do not want to be.

Mr Mahoney mentioned that the majority of the problem, he feels, is in Toronto. How great do you feel the problem is here in London?

1530

Ms Mellor: I have worked here in London and between Windsor and Scarborough, so I have a good sense, maybe more than most people, of the differences between Metro and this region, because I am the only one I know who actually works for tenants in Metro and in the southwest region. I would say the problems here are worse, as far as empowerment goes.

Ms Poole: You raised a very valid concern about the right to a hearing in section 59 and that the tenant would have 30 days to request it. We have also noticed your helpful comments about the mail-back, but I just wanted to let you know it is even worse than you feared; it is 15 days, so that is something that really does need remedy.

I think Mr Brown had a question.

Mr Brown: Specifically, I am interested in the building you used as an example, and I think we here are all concerned with the affordability question. What would you estimate the income to be of the people in this building? It is relatively low, I would suspect.

Ms Mellor: Very low; a number of people on social assistance, working people on minimum wage.

Mr Brown: So it would be fair to say that at best you are looking at $300 a month as a rent they could probably afford, using the kind of formulas that we toss around for affordability.

Ms Mellor: They are already paying an average of $420 for one bedrooms and $470 for two bedrooms and they are looking at 25% on top of that.

Mr Brown: So right before we get to rent review, a rent increase, whatever, they are already paying 40%, 50%, maybe even 60% of their incomes in rent.

Ms Mellor: Very hard-pressed, yes.

CARPORT STRUCTURES INC

The Chair: The next presenter is Carport Structures Inc. We will be following the same procedure: 15 minutes; you can withhold some time for questions.

Mr Riopelle: Just so you will be familiar with the product that I am talking about, I had a little kit passed around; the product is on the front page of the brochure. These products are not available anywhere in Canada at this time. They have 30 years of track record in the United States and do very well supplying a demand for, let's say, covered parking that the tenants would like.

I proceeded with this venture after consultation with the rent review administrators on a local level who assured me after one day of preparation on their part that a separate charge for these carport systems, if kept separate and not included in the rent, would not be subject to rent legislation. Obviously, that was a key question because everything hinged on whether or not we were going to continue with this venture. After a day, we got the answer: Keep it separate and accountable and they are not subject to rent legislation. Great. Away we go.

Two years later, $257,000 later, four jobs later, we discovered some nine months ago that, whoops, I think maybe there is a misunderstanding somewhere; so I recontacted the people who review this, and I said "Let me run this by you one more time, just to make sure we understand where we are going." I went through this scenario again. Okay, the tenant would like it. He is willing to pay for it. We have put it in, and so on. They said: "Oh, no, that does not work like that at all. No, if they are put in it is a capital expenditure under section..." and so on. Well, I just got in my car, drove over and said, "Please, tell me it is a dream," but we went through it over and over again and started to dig into it. Then I started to write to various people, and you have the privilege of having the fattest file of our entire corporation. It is all rent legislation.

So we contacted various people. Obviously, the minister, David Cooke; he wrote and answered some of our inquiries. Colleen Parrish did as well. The local people here in town did as well. Everybody is trying to come up with some sort of a solution. We are now $482,000 into this endeavour.

The people who would put up new buildings or who do not have their rents regulated at any particular time, or set or whatever, they are allowed to put these in and, in agreement with the tenants, either included in the rent or separate, charge whatever they want to, as long as it is a new complex. That is fine.

What I am concerned about, and a large part of our business depends upon, is the existing complex, the people who now are living in apartment buildings and who are saying, as a new one is going up, "Well, can I not get a carport, a covered parking system as well?" And I say to them, "I don't have an answer, other than, if the landlord wants to give it to you, sure, you can have it; but if he wants to charge you for it, you are not allowed to have it." But he will say: "Well, I don't mind paying extra, if I am getting extra. I am a little irked at having to pay another $20 if I am getting the same four walls and the same carpeting and so on. I can buy that." But he is willing, and we did an extensive amount of research in this to find out the marketability of it and what they would be willing to pay and how we could work this out, and invariably the results were: "Yes, I would pay extra for my own spot. It is there. It is covered." Especially the elderly people, they really like the idea of being able to get in and out of their vehicles, arms full of whatever, and be in some sort of comfort, especially in the rain.

We are out there doing feasibility studies and as we are marking the parking lots and designing this thing, people are coming up to us, "Are you marking the parking lot?" "No, we're not. We're actually going to be considering putting in carports." Their biggest question is: "How soon are we going to get them? Are we going to be able to get them before the snow starts?" That is their basic question. And I say: "Well, these can't be free. You can understand there is quite an expense to them. You know, we would like to make them available." And, as I said, their biggest concern is: "How soon can we get them? Of course, we expect to pay more. These things are not for free."

We have seven people on our payroll and our staff right now who are working developing this, and there are 25 people who are on hold. We have our backhoes, our trucks, trailers, our augers, our welders, everything is all set up, sitting for one year right now, and we have not been able to put them to work, other than on new complexes. As you all are aware, there are not too many of those going up at this particular time, so we were kind of stuck with saying, "Keep making the payments on this stuff; it is going to go absolutely nowhere."

How do we get ourselves out of this? There are a few scenarios I am assuming, and I have gotten some very competent and qualified legal advice on this. I am working very hard at it and I am going to continue to work with Colleen Parrish and her people. All we are trying to do is save the seven jobs we have, plus the 25 additional jobs. This is just in London. We have had requests all over Ontario about becoming subdealers, getting involved with putting up these structures for people and so on, so the number of potential jobs is maybe 200 to 300.

I am biased. I am convinced that it is a small guy like myself, and 3,000 others like myself, who will create 25 to 100 new jobs every few years, who are going to get the whole thing going in the right direction. But I am obviously very much stuck with the way the thing ended up, and trying to explain to the consumer that I do not have an

answer: "If you want to move into a new building, go ahead. You will have this opportunity for a carport structure."

1540

Why would the tenant want it in the first place? In your little kit there were a few little mentionable things. The main thing they like about the carport systems, especially the ladies we talked to, is that they are going to be much safer. There is no sheltered crime. We have some buildings in this city, unfortunately, where some people were attacked in their parking garages. So the ladies are parking all over the streets, on the top of the parking structures where parking is allowed. These things are open sided. It is almost like a Neighbourhood Watch program.

In the States in all of our research, they say there is very little crime involved in an open structure. The thing is wide open. You can see through. There is lighting involved, so therefore they feel they are much safer. There is not this sheltered crime, as I mentioned.

The other idea is the convenience of being able to say "I do not have to move. I do not want to move because my rents are reasonable here, but I would not mind having this particular structure." I do not have, as I said, an answer for those people at this particular time other than possibly taking subsection 45(1) and trying to see if you cannot prescribe, along with cable vision, carports and covered parking as part of an item where the tenant can decide if he wants it or not.

We do a survey in a building and there are 100 tenants, 60 of whom right off the bat will say: "Hey, I'm interested in that. I would pay extra for that coverage." Then I recommend to the landlord, "Don't put in any more than 40." Everybody gets enthused about something, a new idea, at the beginning. Put in 40, there will always be a number on the side waiting. If that person decides to change his mind, let him change his mind. Give it to somebody else who would really like to have it. If the person is going to pick up and move on, do not get him strapped into a 10-year agreement that no matter what, he has to take on the lease. We do not need any of that kind of stuff to start with. There will be people, once you get them in, who will be fighting to keep them, and their neighbours will be fighting to get into this covered structure.

It has proven itself 30 years in the States, and people say to me, "Well, how come it has taken so long to come into Canada?" If you had two days, I could tell you exactly why, and I am not even concerned about competition at this point. It is a nightmare that I am involved with, and I am just asking if you people could look into the possibility of giving them an opportunity to say: "Yes, I want it. Yes, I am willing to pay for it, and if I want to get out of it, I can just walk away." That is it.

Ms Poole: Hi, Mr Riopelle. It is nice to meet you in the flesh after I contributed to part of that.

Mr Mahoney: Excuse me?

Mr Riopelle: Your stuff is in my file, yes.

Ms Poole: Did I say something wrong? Anyway, I was glad Ms Parrish was able to provide some assistance to you. I just wanted to confirm something which is mentioned in your handout: that this will be entirely with tenant consent, that you are not forcing anybody to take something that they do not want. This is an agreement with the landlord and tenant based on consent.

Mr Riopelle: Absolutely. If you keep the numbers down, if 60 people want it, have a smaller amount available so that they do not feel pressured into keeping something they do not want. If they do not want it, just pass it on to somebody else.

Mr Mahoney: Why would something like this not be almost a separate lease in a sense? Maybe that is a question for the government members. If the parties agreed, presumably you would have some kind of a master lease to the actual person who owned the land, which would be the land owner. If he had 60 apartments and put in 30 spaces, it would be up to him to lease them totally separately. It would have nothing to do with face rent or with the actual lease or the tenure of the lease or anything. If they do not want to pay the amount, they do not pay it. They do not get the space.

Mr Riopelle: That is right.

Mr Mahoney: It probably is too much like common sense to work.

Mr Riopelle: It is exactly what we are talking about, and it is exactly the solution that I said. If the person who wants it is willing to pay for it, why not let him have it? You are not going to cover 100 spaces in 100 units because some people do not have cars, others do not want it no matter what. You are not going to force somebody to buy if he does not want something.

Mr Tilson: I guess the problem you are raising has been raised in other types of areas. In other words, any agreements between landlords and tenants under this Bill 121 simply are not allowed.

Mr Riopelle: Right.

Mr Tilson: In other words, if you do not meet those specific increases or specific allowances that are in the agreement, you are out of luck.

Mr Riopelle: Exactly.

Mr Tilson: We have had tenants and landlords come to us and say, "But we've agreed on it." Of course the bill says, "Tough." I guess that is the approach I would be interested in hearing some comments on, from some of the government members, as to whether there are ways of getting around that when tenants do agree with the landlord that a certain project such as this should go through.

Mr Riopelle: Precisely.

Ms Harrington: As I mentioned to the previous presenter, I believe there is no problem with the consent as long as there is no coercion, and we have to ensure that.

Mr Riopelle: Exactly.

Ms Harrington: We have to look at that. I understand you are already working with our ministry people. Hopefully, we will come up with a solution. We are looking at the problem of separate charges too, and taxes and other things.

Mr Riopelle: If it could only be prescribed, as it is with cable, because it is a unique product. There is nothing

like it. You either go in the ground or to stacked parking. It is a completely new element. I think that is maybe what originally threw off the people who administered it. It took them a day to get back to me to say: "Keep it separate and accountable. It's not part of rent, so therefore it's allowable." I went along with that. I thought that was a solution.

Mr Winninger: As you know, Mr Riopelle, this is a fairly complex issue. You and I have discussed it a number of times, and while you were not told not to do it, it was suggested to you that you get your own independent legal advice—

Mr Riopelle: Which I did.

Mr Winninger: —before going ahead with it.

Mr Riopelle: Oh, excuse me. No, definitely not. Two years later I went and got legal advice and started to work on the legal advice, but prior to that I was told there was no problem. It was going to be separate. I did not proceed with it until I had put so much money into the slot machine I had no choice but decide to walk away from $250,000 or put a bit more in development.

Mr Winninger: Sure, but no one told you not to do it. In fact, now the Ministry of Housing is looking at whether there is some specific amendment required to separate out your carport systems as a separate service—

Mr Riopelle: Yes, that is what we are working on. That is right.

Mr Winninger: —so that they would not be included in the base rent.

Mr Riopelle: Right, that is exactly what we are working with.

JOSEPH HOFFER

The Chair: The next presenter is Joseph Hoffer, for 15 minutes.

Mr Hoffer: I have a handout which I have provided to members of the committee. I will be referring to it at some point in my presentation. I do not intend to throw out a lot of generalities because I have only a few minutes to make a pitch. I want to make a pitch on behalf of a number of people who were severely hurt when the NDP took office and overrode the rule of law and retroactively changed not only laws but people's lives.

The biggest problem with the Rent Control Act that has now been proposed is the uncertainty that it presents to landlords. This type of uncertainty has been found in rent control legislation before. It existed when rent controls were first introduced into the province, and it was only cured after the Thom commission of inquiry concluded that there needed to be certainty. Our experience with Bill 51 was that people did use the legislation when there was certainty. Prior to that there were no regulations. What happened was that landlords found themselves more or less at the whim of whatever administrator, at that time officer, they happened to be in front of. You are reintroducing that concept with this legislation. All the substantive provisions in the Rent Control Act do not address the real issues that are going to come before a rent review administrator. There are no particulars in here. They are shrouded in the secrecy of regulation. As you all know, those regulations can be changed overnight by the stroke of a pen. So how are landlords going to rely on this legislation?

In order to highlight the uncertainty, I want to focus on a particular section, section 16, by which the NDP recognizes that it treated a certain group of people very unfairly back in 1990. It is the section that allows landlords who completed capital expenditures between January 1990 and June 1991 to go back and collect some kind of increase as a result of those expenditures. That is the window dressing, but if you look at the section you will see that it offers very little to these landlords other than risk. The section itself says, "The landlord may base an application on a capital expenditure that the landlord has carried out" in previous years. "Capital expenditure" is not defined other than in the previous section and there it is extremely restrictive.

1550

Very few of the examples I will be referring to fall within these definitions of capital expenditure, so that while, on the surface, it looks as though you are giving them an opportunity to recover these costs as a result of the unfair treatment, in fact by the time you work these numbers there is nothing left for the landlord. It is going to be, in these examples, less than the 2%. So that part is meaningless. You do not specify anywhere whether or not the landlord and tenant can agree to capital expenditures other than capital expenditures which fall within this extremely restrictive definition.

I do not understand why landlords and tenants cannot agree on things and why this government seems to think tenants are too stupid to understand what a landlord is asking them to do. In my submission—and I have seen lots of these agreements and I have attended many hearings—tenants are not stupid. They do not need the government to say what they can and cannot have. If they want a fridge, if they want a stove, if they want a carpet, they should be able to have it without having to go to the government and get special permission.

Another problem with section 16 is that there is no indication as to how a capital expenditure allowance will be calculated. You have to remember that these landlords who spent, in the one case, over $100,000 and, in the other, over $200,000, financed those capital expenditures. They have been carrying the cost for the entire period of time. If you are going to recognize, by enacting section 16, that they have been treated unfairly, you should recognize that they have been carrying those costs for approximately two years by the time their application goes through, and you should build those costs into the costs of the capital expenditures. What I suggest to you is that with section 16 there should be a provision that treats capital expenditures as capital expenditures under Bill 51, not as capital expenditures that we have to guess at under the Rent Control Act.

I just want to refer to the examples I have given you. There are not very many pages. The first page is a petition for the attention of Bob Rae. It is 100% support by tenants of an application made by a landlord here in London. In effect, the tenants are supporting the landlord's application

for a rent increase and indicating an appreciation of what the landlord had done in terms of renovating the complex. If you look into this case further, you will find that the previous year the landlord had also made a number of improvements. The type of improvements we are talking about in this particular case were a new roof, roof flashing, drains, en suite carpet, common area carpet, en suite painting, aluminum soffit and fascia and new countertops in the units. There were many other things of smaller value but these were the major value items.

If you look at this petition that was sent to Bob Rae, you will see among other things a concern by the tenants that the government is interfering with their needs and wishes. That is exactly what happened here. If you go in, you will see a letter from the Premier written to the tenants. It is the type of patronizing letter I have seen many times from the government in response to people who were complaining about the unfairness of the legislation. If you look at page 2, you will see that the Premier advises that the legislation is an interim measure only. It is going to pass and it will allow for an extensive period of consultation. I believe that what he is referring to is this brief summer period of consultation. If you think about this letter in response to that petition, you have to ask yourself what in the Rent Control Act addresses those concerns. Nothing in the Rent Control Act responds to these tenants' concerns.

The next page in the material I have given you consists of a representation by a landlord. He notified all the tenants of what he planned to do. He was going to install fridges and stoves in all the units, was going to put new carpet en suite and in all common areas and was going to replace an existing boiler that had been there for 14 years. The landlord obtained the tenants' consent to the purchase and installation of these things and made an application in complete reliance on the law. The NDP retroactively changed the law.

Here we have somebody else who is caught by these unfair provisions. This section 16 purports to restore or help the landlord in recognition of the unfair treatment, but it does not do that. The only thing the landlord in that second situation will get credit for is the boiler, and that is less than 2% of the rents by the time you work the numbers. The landlord has to eat the cost of all the other things that people got the advantage of, including the carrying costs for the last two years.

I ask that the committee, having recognized that they treated the landlord unfairly, offer a true remedy and not the kind of window dressing that section 16 is as it currently exists. I ask that you make specific references that the capital expenditures that a landlord claims on this type of application be capital expenditures that were allowed under Bill 51, under the same amortization periods, and that you also include a provision that would build in the interest costs the landlord has had to carry for two years waiting for this long-term legislation that was promised by Mr Cooke. This section, as it is presently worded, illustrates the uncertainty.

Many other sections create uncertainty for landlords. As a practical matter, it is very unlikely that landlords will ever go to rent review. Rent review will be the last thing a landlord will ever want to become involved in—I think the government knows this—because there is no practical benefit to a landlord. There is extreme risk, and we are not even sure what type of results can be achieved by a landlord, because everything is done through the regulations.

The last point is another concern I have with the act. You have taken away from landlords, especially the small landlords, the right of appeal. You say there is an appeal on a question of law to the Divisional Court. Ask yourself how many landlords of duplexes and triplexes and fourplexes, who are treated unfairly, are going to have the funds to go to the Divisional Court to correct that unfairness. You have robbed them of that right. The person who is deciding at first instance is a political appointee. You can bet that the political appointees, in order to keep their jobs, are not going to have a track record of making findings in support of the landlord. It has got to be independent and that is not the case right now. That is my presentation.

Mr Winninger: You made a point concerning the kinds of repairs and renovations that tenants may consent to that you feel were barred under this proposed legislation. As an experienced lawyer working in this field, you would be aware of section 17, which provides for an application based on specified capital expenditures that a tenant agrees to; and also section 18, which provides that a landlord can apply for an increase based on additional services that a tenant agrees to. There is that mechanism built in so that if a landlord and tenant agree, repairs and renovations other than the necessary capital repairs referred to elsewhere can be done and passed through, up to the 3% cap.

Mr Hoffer: With all respect, that is not what the section says. First, it is only prospective. Second, it talks about capital expenditures. Well, capital expenditures are defined in a very restrictive way, so the only things the landlord and tenant can agree on, apparently, are things like roofs, hot water systems, boilers—things that fall within the definition of capital expenditure. If section 17 is to have the meaning that you put on it, then it has to broadly define capital expenditures beyond the narrow definition that we find in section 15. I think it would be tremendously important. If that is what you really intend, then you should specify that, because that would really go a long to resolving some of the problems.

Mr Winninger: I cannot imagine why we need section 17 if what you say is true. It would just be redundant, and section 18.

Mr Hoffer: Section 17 says "capital expenditure." If you go back to section 15, it tells you what capital expenditures are. There is no ambiguity there. It is a very restrictive definition.

1600

Ms Poole: I would like to elaborate on your point about the right of appeal. Quite frankly, I share your concern that it is very limited now. Certainly most tenants and most small landlords are not going to be able to spend the type of money to take it to the Divisional Court.

When I asked a tenant representative about the right of appeal the other day and whether she was concerned about

the limited right—she was also a lawyer, which is why I asked her—she said she was not so concerned if there was to be a hearing, particularly if it was a three-member panel. She was extremely concerned if it was going to be in an administrative review and there was not going to be any right of appeal. Do you make any differentiation? Would you like to see that right of appeal right across the board, regardless of whether it has been a hearing or an administrative review?

Mr Hoffer: The right of appeal should be right across the board, regardless. There is even more room for error in an administrative review, but even at a hearing level, if it is not an independent tribunal—and the way this act is set up it is not—then there is no way that a landlord is going to be fairly treated. The pejorative nature of this legislation against landlords would dissuade any landlord in his right mind from risking a hearing in front of one of these officers. It would only be out of pure necessity that I would ever recommend that a landlord go to rent review.

Mr Tilson: Mr Winninger, I believe, is a representative in this area, and I am sure if you asked his assistance he would be pleased to present this petition to the House on your behalf because it certainly is an important point that needs to be raised.

Ms Poole: On a point of order, Mr Chair: I did read this petition in the House. It was sent back in the spring.

The Chair: That is a point of information, not a point of order.

Mr Tilson: The comments you raised with respect to section 16 certainly are repeated throughout the hearings. I appreciate your suggestions. Certainly our party will be putting forward an amendment to that section 16 for the consideration of the committee because it does not catch work done in 1989. The percentage increase it has allowed does not even cover the carrying costs or the financing that has been carried by individuals until now and, more important, the whole issue of neglect did not exist previously and now it does, so I do thank you for your thoughts on that section.

Ms Harrington: I wonder whether we could get a point of clarification from the ministry staff with regard to section 16, the definition of the capital costs it covers, whether it is defined in Bill 51 or Bill 121. It might help the presenter.

The Chair: Can we have that information now, or do you need time?

Mr Irwin: Let's have a little time in clarifying that one.

Mr Hoffer: My only point would be that it has to be in the legislation.

Ms Poole: Mr Chair, just for the information of the committee on that point, I asked Dana Richardson that very question about those specific cases and she told me the only provision that would apply would be the 3% cap, not the definitions of "necessary" and "neglect." It would be good to get that confirmed for our committee.

The Chair: Very good.

Ms Harrington: In other words, it is a Bill 51 definition.

Ms Poole: That is what she said.

DAVE SOUTHEN

Mr Southen: I am Dave Southen. I am just a small property owner here in town together with four other people. We have a 16-unit building in London. H. L. Mencken observed that politics is a futures market in stolen property. There is no better example of that than this proposed legislation. I see that the committee here is basically the same committee I spoke to regarding Bill 4, so not much has changed in terms of my problem with the bill; and of course what I have said is now part of the permanent record. As I pointed out, I have four partners in a small property that was built in 1972, and it suffers from all those design problems that buildings of that vintage display.

Like the previous presenter, I feel profoundly let down by the legislation that was produced as a result of the inquiry into Bill 4. Politicians are not listening, and really do not give a damn about anything other than partisan politics. I had the dubious distinction of meeting with my NDP member of provincial parliament on Friday. Quite simply put, she said the tenants were the people who elected her, and too bad if I lost my life savings. The greatest good for the greatest number is the only thing that counts. Or, alternatively put, if you rob Peter to pay Paul, you can always rely on the support of Paul. What a vile, pernicious, self-serving, evil statement. Given that there is no chance to have any input whatsoever and that the NDP is going to ram through whatever it damned well pleases, at least the worst parts of this very bad legislation should be addressed. Let me address those.

First of all, the split between large and small buildings is really absurd, other than the fact that "capital improvement is a percentage of gross rents" may mean that a smaller building should need a larger increase. I cannot see any evidence to show that it costs more to operate a small building than a large building. Indeed, I state that the contrary is true, that a large building would typically have a larger percentage of operating costs than a small building.

Second, the issue of capital cost or capital expenditures: A 3% limit is completely and totally unworkable, especially for small buildings like mine. The roof on the building of which I am a partner is 7,000 square feet, and it costs about $35,000 to replace it. The property is 20 years old and we have done maintenance on the building regularly, including spending $9,000 on the roof a year ago, but ultimately it is going to have to be replaced. It is coming to the end of its useful life.

The 10-storey building has the same roof area, so how can we justify making that expenditure and getting nothing for it? It does not really make any sense. It certainly would not be efficient for us to do things in a piecemeal fashion on this building, a little bit this year, a little bit next year and so on and so forth so we could avoid being caught in this carryover problem other speakers have addressed better than I have.

Another problem for us is the reclassification of capital items. I am sorry, carpets, flooring, cupboards, fridges, shower tiles and so on are most certainly capital items. One fellow at the most recent hearing was taking me to task that our cupboards were only lasting 20 years. Well, I

am sorry, that is a capital item when it can last 20 years. Taking that out and changing these classifications is absolutely absurd. Mike Howe put it more eloquently than I did. My tenants do not care about the state of the roof or the fact that we have galvanized plumbing, but they certainly care about the refrigerators and the carpets, and the carpets are 20 years old. These are things we could agree to replace, but we are no longer in a position to do so.

A cap on recovery of operating costs: If the hydro goes up 44% over the next three years, you are asking that we bear this cost almost entirely. A 3% limit on pass-through is completely absurd. Why do you wish to shelter the people from the market that you control, essentially, and make the landlord bear the entire increase? I guess the thing that disturbs me most of all about this legislation is the disregard of Dave Cooke's promise, that those caught with capital expenditures they could not recover under Bill 4 would be treated fairly. Another broken promise. As Dianne Poole pointed out, the electorate gets mad about broken promises. How can you trust what a government tells you? The truth is, you cannot.

I could not but help think when you were making that comment, of the old adage that the way to tell if a politician is lying is if his lips start to move. Reaching to a legacy of lies and broken promises, it was a jaded and disillusioned electorate that voted for the NDP and I have seen nothing but a jaded and disillusioned electorate since then.

A permanent reduction in building value: Other people have spoken considerably more eloquently on this particular issue. All I can tell you is that my life savings have been confiscated and I hope you are happy about that.

The last point is perhaps a little more personal. I do not really want to rehash everything I told you during my presentation the last time through. My partners and I have owned this building since 1988. We bought it as a long-term investment. We have not generated a cent of cash flow, because anything the property did generate we have been reinvesting in the property. Indeed, it has had negative cash flow every year, because essentially we have been upgrading the property as much as we possibly could. We have received many compliments from our tenants about how much better things are.

Our building is going to require a significant capital upgrading due to its age and the materials that were originally put into the building, and really, quite simply put, we cannot afford to do this. It is going to be very, very sad for me to have to tell our good tenants that we cannot afford to do upgrading because there is no money available. I hope you are satisfied. That is it.

1610

Mr Tilson: Your disillusionment and frustration are showing around the province, sir; I mean the reaction we are getting from many people who have spoken to us with respect to Bill 4 and then returned. I would like you to direct your thoughts to one area that was raised in the bill and which you have referred to: the distinction between small buildings and old buildings. One of the alternatives to that clause is the idea of talking about the age of buildings, in other words, perhaps distinguishing buildings prior to 1975 as opposed to after 1975.

Mr Southen: I am not really an expert to speak on this. All I can tell you about is my own property. It was built in 1972 and, like I say, has galvanized plumbing, aluminum wiring and so on and so forth. Realistically speaking, the tenants do not give a damn about that sort of thing but the galvanized plumbing has to go. You have pressure problems. We have gone through a lot of it. We have replaced all the cross pipes completely but the risers are left to go.

Mr Tilson: I think that is the point that is being raised, that the realistic gauge should be the age of the building as opposed to small or large.

Mr Southen: It seems to me that under the old bill replacement parts were given a life—risers 15 years, 10 years, 20 years, whatever it happened to be—that bore some resemblance to how long things last in the field. That would be a reasonable way to go about replacing parts. I do not think delineating the thing based on the age of the building would make sense. If a building needs to have something replaced, it needs to have it replaced regardless of whether it was built last year or 100 years ago.

Ms Harrington: Our new minister asked us to look at amendments to the act. One thing we have mentioned is the small versus large buildings, the old versus new buildings and how to try to make the system workable. I will not get into any argumentative debate with you, but I want to know a little bit more about your building. How many units does it have?

Mr Southen: Sixteen.

Ms Harrington: I think I remember you coming before us.

Mr Southen: That is right.

Ms Harrington: What kinds of increases were you looking for?

Mr Southen: Like I say, we were just in the process of getting geared up to do the improvements on the property when the legislation came in and we quit doing that. To be quite honest with you, I am uncertain. I cannot imagine it would be large, and even if it were in percentage terms, by the time the rents were done it would still be very, very modest. Our two-bedrooms are probably 800 or 900 square feet. They are running for $450 a month all-inclusive. If we had spent $10,000 a unit and done everything, I rather suspect the rents still would probably end up—I am not certain—in the $570 or $580 range. For that size of unit, it would be very, very reasonable value.

Ms Harrington: You will be looking towards about 20% or 25%.

Mr Southen: It would be imprudent of me to say so. I do not know.

Mr Brown: Where is your building located?

Mr Southen: In south London.

Mr Brown: In the riding of London Centre?

Mr Southen: It is actually in David Winninger's riding.

Mr Brown: In effect you own a triplex?

Mr Southen: For all intents and purposes I guess that is true.

Mr Brown: You own a triplex, so you should qualify for two thirds. We have been having the same difficulty you are having with this because there is absolutely no reason under the sun that they have been able to provide why the buildings are differentiated, in terms of pass-through, by whether they are six units or less or larger. The mom-and-pop operation might be more likely to own the small building, but it makes no difference whether you go together with four partners and buy a 16-unit building or whether you own a triplex.

Mr Southen: That is right.

Mr Brown: Obviously, from your point of view, you need that money maybe more than somebody who just built a brand-new triplex. Quite conceivably, could that be true?

Mr Southen: I do not really want to take money at somebody else's expense. That is not really the way I was made. I do not really want to get into entitlements and that sort of thing.

Mr Brown: I agree with you entirely. I think the point here is that the differentiation being made is totally artificial without any kind of foundation.

Mr Southen: It really is. Like I was saying, it really is contrary to experience too, from what I know of larger building operations. I have owned a duplex or a triplex in my day and they operate at a considerably lower percentage of overall expenses than do buildings with elevators and so on and so forth. Those typically operate at 50%, the big buildings. Our building operates at 45% and it is just a walkup; and the small stuff, you might get away with 30%, I do not know, but certainly a lot less. It seems to me it is backwards, if anything.

LONDON CHAMBER OF COMMERCE

The Chair: London Chamber of Commerce. Gentlemen, we will be following the same procedure. You have been allocated 15 minutes for your presentation. You can withhold some time for questions and answers, if you wish, and we need you to identify yourselves for the record.

Mr Barry: My name is Frank Barry. I am the vice-chair of policy for the London chamber, and with me is Jim Etherington, who is this year's chairman of the London Chamber of Commerce.

Essentially, our position supports that of the Ontario Chamber of Commerce, in that we are opposed to rent control in its present form. We have taken the position in the past and we continue to take the position that provincial rent review programs have mushroomed into a huge bureaucracy that inhibits construction of housing. We believe this contributes to the withdrawal of investment in existing and new facilities and causes more problems than it solves, thereby hurting the very people the legislation was designed to serve. We also believe that any benefit of the rent control legislation to tenants is short-lived in that there will be no extraordinary increase in rent.

However, on a long-term basis, we believe, in conjunction with the Ontario Chamber of Commerce, that the legislation will achieve the following negative results: It will discourage developers from building an adequate range of rental accommodations. It will discourage landlords, particularly the provisions for not capturing increases in capital cost, from doing major repairs and the maintenance that is required for a decent standard of living. It will discourage financial institutions from making loans to finance the construction and renovation of rental accommodation. Quite clearly, no financial institutions are going to make loans if they feel that the landlords are in a very shaky financial position. It will discourage people from making the normal progression from renting—for example newlyweds—to owning property of their own. It will encourage landlords with a small number of units, particularly those not subject to the Rental Housing Protection Act, to convert from residential rental to any other available use.

We feel it affects detrimentally those people in the construction industry, because it inhibits the construction of a range of rental accommodations. It artificially creates problems between landlords and tenants, and it causes personal hardship to many smaller independent landlords whose savings are tied up in their properties and who are unable to afford the necessary repairs. We view these small landlords particularly as independent businessmen. They are pursuing their ownership. They are in the business of providing accommodation, not from altruistic motives, but primarily as a business, and we simply see it as unfair and untenable that small businesses should be penalized in such a fashion.

We have three recommendations, in addition to those made by the Ontario chamber, and I presume, Mr Chairman, that you have seen the recommendations of the Ontario chamber. We would recommend, in addition to those, that the government continue to monitor the difference between actual rents and market rents, because that tells an awful lot about the artificiality of the situation. We should also be monitoring vacancy rates to determine whether or not the legislation is really necessary. As you may be aware, vacancy rates in London have been increasing. Third, we would like to see the government devise a new rationale for housing policies in Ontario so that the marketplace will function sensibly and not be subject to artificial controls. That, briefly, is our presentation.

1620

Ms Poole: Thank you for your presentation today. With reference to your comment about the legislation discouraging financial institutions from making loans to finance the construction and renovation of rental accommodation, have you had examples of that happening in the London area? Have members of the chamber brought you instances where they have gone to the bank to try to get a loan or to try to refinance and it has not been possible? Is this just a fear you have that this will happen, or do you have concrete knowledge that it is happening?

Mr Etherington: I am a vice-president of London Life and we are a major investor in residential mortgages and residential development in this country. Certainly in

the planning process, in making the estimation of whether there is an adequate return in that business versus other kinds of investments, we have shied away from areas where there are very stiff rent controls. That is in a very general sense. I am sorry I cannot give you statistics, but I could probably provide them to the committee if it is interested. Rent controls tend to retard the interest of investors even the size of London Life.

Ms Poole: There are several aspects of Bill 121 which people have alluded to which might discourage the financial institutions from wanting to continue mortgages. One of them is the rent penalties; there is no security that the income will actually be continuing. The second thing was that there is no certainty that when a landlord completes the capital expenditures they will indeed be passed through, because I gather the financial institutions are finding it too restrictive and too uncertain. Do you have any knowledge of this? Can you confirm whether that is indeed a problem?

Mr Etherington: I cannot give you details. My area of expertise is not in the investment area. From what I have read, and in talking with our investment department, you need to have encouragement and incentives in order to make the investments. We are speaking not as a landlord, because London Life is not a landlord. We lend money to developers, and sometimes entire subdivisions.

Ms Poole: You may be a landlord sooner than you think.

Mr Etherington: That is correct.

Mr Brown: We have been made aware that the gap between market rents and economic rents is actually closing rapidly right at the moment, and perhaps recession is the reason for that. There is a Royal LePage study, commissioned for the Ministry of Housing, that is showing that blip. It would seem to me right at the moment a more restrictive rent control policy is almost counterproductive.

The government is always accusing the Liberals of having a wildly extravagant system, which, as you know, provided an average of a 5.8% increase across Ontario. Yet under that system we ended up with market forces and the rent control system actually coming closer together in providing more accommodation during the period it was in place. I do not know if you just want to comment on that statement. I would appreciate it. Are your statistics telling you the same thing?

Mr Barry: Yes, we can agree with that. The general sense is yes, that is happening, and it confirms our approach that in fact the market forces should be brought to bear, should be allowed to take place, because obviously in any situation with an oversupply of accommodation, the asking price goes down. It is a pretty simple economic situation that we believe should be allowed to exist.

Mr Turnbull: Premier Rae has stated that he wants the co-operation and confidence of the private sector. Is there anything in this legislation which would lead you to believe that this will engender such confidence?

Mr Barry: From the point of view of the business community, no. We see this as another example of the opportunities for the small business community being run over, if you will.

Mr Turnbull: We have had testimony from a lot of landlords, particularly small landlords, who have mortgaged their houses, and in some cases have gone out to their in-laws and got them to mortgage their houses too, to put down as the deposit on a building. Typically, they have put down 20% or 25% cash on it. They have seen their equity wiped out as a result of Bill 4 and now Bill 121 and they are still losing money on the building. Not only do they not have any capital gain, or any net after-tax income, but in addition, as they are trying to refinance their buildings, they are being told: "Your building is worth less. Therefore, we want you to have some equity in it. You will have to have a smaller mortgage, so you'll have to come up with some cash." What will this do in terms of the message this sends to investors in other businesses?

Mr Barry: I am not sure how to relate it to other businesses, but very clearly investment in the housing industry and that part of the housing industry is going to be very severely affected and in fact retarded. There is no question.

Mr Turnbull: Do you think this is going to have a negative impact in terms of foreign investment in Ontario?

Mr Barry: Absolutely. Oh, yes. If a businessman, a small entrepreneur, cannot see his investment mature in a small residential apartment, for example, what is the point of making that investment in the first place?

Ms Harrington: I think you may have heard me say this before, and certainly it is quite obvious, that part of the whole housing picture in Ontario is the viable private rental market. I think that is self-explanatory and we have to get to that point. But on the other hand, housing is such a basic need that we do believe as a government that there have to be regulations in that field to assure people. I understand that there is a period of instability now for people with regard to investment, whether or not it is pertaining to government or the legislation or the recession. Business all over, not just in the rental housing market, is in a period of instability, and we know that we want to get to a period of stability.

I have a couple of comments with regard to your submission. First of all, you say this legislation will discourage the normal progression from renting to owning. I firmly believe that people have to have an affordable place to rent in order to accumulate a down payment to move into owning their own home. I think that is a very strong urge in this province. We, as Ontarians and Canadians, do want to get into the home ownership market.

You also mention a deteriorating relationship between landlords and tenants. I am stating that there has been a problem in the past, and there probably still is. It is a very important part of our platform that within the mandate of this government, over the next five years, this has to improve. We believe that landlords and tenants have so much common ground that we have to improve the situation.

The last thing I wanted to let you know is that last week in Toronto we heard a submission from the Provincial Building and Construction Trades Council of Ontario,

and it strongly endorsed this legislation. I do not have their brief in front of me, so I cannot comment in detail on it. But I certainly hope that we can try to work together.

The Chair: I have a couple of questions myself. How large is the investment pool of the company where you are the vice-president, sir?

Mr Etherington: Of London Life in residential mortgages?

The Chair: Yes.

Mr Etherington: It is $5 billion.

The Chair: And that is all totally invested already?

Mr Etherington: Yes.

The Chair: How many more hundreds of millions of dollars per year would you expect to invest in the housing market?

Mr Etherington: The decision on investments is made on the basis of prospects of return, whether it is a small business or a business the size of ours. We would look at all the potential investment opportunities, whether they are commercial or residential on the building side or investment in businesses, joint ventures or stocks and bonds or whatever the case may be. In other words, I cannot give you a real answer because it all depends on what the opportunity is.

1630

The Chair: What is the corporate policy on the rate of return, other than the best you can get?

Mr Etherington: I think the return on equity in our company is around 19% to 20%.

The Chair: Per year.

Mr Etherington: Yes.

The Chair: That is one and a half times the Canada savings bond rate.

Mr Etherington: I do not know whether that is a fair comparison in the sense that our job is to return good value to our policy owners, of which there are more than two million Canadians, and our shareholders.

The Chair: Based on a 19% return, are there any rental properties in existence that could give you that rate of return, or any that could be constructed that could give you that kind of return?

Mr Etherington: Obviously not. The rate of return on the mortgage portfolio is nowhere near 18% or 19%. I am talking about total return on equity in the company as a whole.

The Chair: I want to zero in just on the housing if it is possible. What is the corporate policy on the rate of return in the housing sector that we were talking about earlier?

Mr Etherington: We work with the market, obviously, and seek a return at the top of the market as best we can. One of the things we try to work very hard on is quality of our investment as well, because we are using the money of policy owners. Our arrears position on mortgages is .001%.

The Chair: So you have good customers.

Mr Etherington: Yes. We work very hard on establishing good relationships with our customers.

The Chair: What has been the average rate of return in your housing portfolio, say, the last five years or maybe even the last one or two years?

Mr Etherington: I am not sure we segment that out. I will seek that figure for you if you would like to know it.

The Chair: If it is possible, unless it is confidential information.

MORNINGTON PROPERTIES TENANTS ASSOCIATION

The Chair: Mr. Eric Harrison of Mornington Properties Tenants Association, we have allocated 15 minutes for your presentation. You can withhold some time for questions and answers. Anyone who is going to be part of the presentation or answer or ask any questions, we need you to identify yourselves for the Hansard record.

Mr Harrison: We are here on behalf of the problems where we are living at Mornington apartments. They are real concerns to us. We do not seem to be getting anywhere with the rent review board when it comes to overcharged rents. We have people who have money coming to them, and their case is with the rent review board and they have been there, some of them, for three years. The last figure I heard, about 100 people in the three complexes had money coming back to them. That is one thing.

In regard to the enforcement of new legislation and rent controls, how do you propose to enforce these?

The Chair: As Chairman, I am not here to answer your specific questions; I am here to conduct the meeting. We have staff here to answer specific questions or your questions can be asked of the government members or the opposition members, whomever you wish.

Mr Harrison: I will go to the government.

My question to the government is how it is going to enforce all this new legislation that is coming into effect. In the past legislation regarding rent control and all this stuff and regarding the maintenance of buildings—for instance, I have been there 10 years and the only work we have got done in those buildings, three complexes, is by work orders through the city. We have been in touch with superintendents and management and we have got nothing done, so we had to go over their heads and go to the city, city health and city standards. We have had some progress since we did that, but this is our main concern.

Why should we have to go to the city to get work done? We have been in touch with the city standards and they have said they are understaffed. They do not have the people to go through all these buildings. As I said, we have had work done. It has taken a year to get some painting done in the buildings.

Ms Harrington: I certainly would be pleased to try to answer your questions or any other member here, but I thought you would want to make a further presentation of your position on the legislation or any amendments to it. That is our usual procedure.

Mr Harrison: All we have right now is what we are discussing. We just want to know how you are going to enforce all this new legislation. We have had rent controls

and all this over the years, but they have never been enforced.

Ms Harrington: Okay, I will go at that. We have had not rent control; it was called rent review in the past.

Mr Harrison: Rent review, yes, that is right.

Ms Harrington: It started in 1975 under the Conservatives. This was regulation of the rental market, but it did not work.

Mr Harrison: That is right.

Ms Harrington: Now you have a new government that is saying: "It's got to work. We're going to make it work and have real rent control."

Your question is a very valid one. How do we make sure that maintenance is done? From listening to many other presenters, we have put in very tough controls that the landlord cannot get rent increases if there is an outstanding work order.

I understand that you are concerned about the city's bylaws being strong enough and having enough inspectors to do it in a timely fashion. I know what has happened in the past, it has dragged on for months and even years, and we do not want that. We want to have a system that will work and work quickly, and yet we want to be fair.

There is a period up to 30 days where this work order has to be enforced and we are trying to make sure it does work. We know we have to get after the municipalities and make sure that their municipal inspectors are out there doing the job. That is going to be tough but we have to negotiate with the municipalities on that as well.

Mr Harrison: I understand that, but the people who own these buildings, like the property management, they are from Toronto. Their offices are in Toronto. What they do, as far as I am concerned, is defy the city. You have to go right down to the wire before you get anything done.

They say they are going to do this, that and the other. Where I live, in 583, it has taken about a year to get my place painted. That is just the hallways and the stairwells. Now they have done 573; they are supposed to have done it over there, but they have not completed the job over there yet.

Ms Harrington: Under this legislation all I can say is that things are going to change. Maybe Mr Winninger might like to comment on the situation here.

Mr Winninger: I know a bit about the Mornington situation. I have heard many times about the leaks in the roof and many of the other problems within the apartments themselves. I know you have gone back and back on these same problems trying to get redress, trying to get city hall to respond.

One can only hope, as Ms Harrington just said, that unfulfilled work orders going to a special officer in the Ministry of Housing who can then issue a rent penalty order and allow the landlord only 30 days to fix this up or else, will provide a very strong disincentive to the landlord not to carry out these repairs because it can cost the landlords hundreds of thousands of dollars in lost rent if they do not comply with these work orders. If we did not have teeth in our legislation before, I hope this will give teeth to our legislation.

Ms Poole: With reference to your comment which I think was very well taken, I had a question. Is what you would like to see province-wide standards so that the province sets the housing standards and the bylaws as opposed to each municipality, thus having a big variation; or would you like to see provincial inspectors instead of city inspectors, or a combination; or would you like to see the province giving more money to the municipalities so they can hire enough inspectors? I just wanted to get an idea of the extent you wanted to go with this.

1640

Mr Harrison: I would like to see provincial inspectors and city inspectors. I am not blaming the city. They only have so much to work with, maybe, but the inspectors, you give them a call and within a couple of days they are out to see you. They say they have done the job, that is what the city says, but I would like to see somebody come up and have a look at the buildings when the job has been done, outside of the city inspector, like a provincial inspector. That is what I would like to see, because we have had jobs done and not even completed but we are told they are done.

Since I have been there, 10 years, they take the rents and they do not put anything back in the buildings. This is a fact. I have people here who will tell you the same thing, who live in different buildings. I am sure, out of your rent, a percentage of that goes to maintaining your building, but we do not get anything put back in those buildings unless there is a work order. Now they are trying to come back on us for two years' increase of rents. We have appealed that too, for the simple reason that we do not think it is justified, because they have never done any work in the buildings.

This is an outfit from Toronto. I do not even know the owner's name, but I know the property management is Kaymor. We have complained we cannot get hold of him. You phone him up in Toronto. So now they have appointed a lady, a Miss White. She is what they call the building manager. She is supposed to make sure that things are done in those buildings. I asked the superintendent the other day, "When are you going to put the light bulbs in the fire exits?" They have been out for three months. "We haven't got the money to buy the light bulbs." This is true. We have senior citizens there. If we have a fire in those hallways and there is smoke, there is nothing to see which direction they are going in. We have seniors down there. That is one of our concerns.

Also on the back doors, there were no locks on them, the locks had been taken out and we had bag people sleeping in the stairwells. They would come in at 2 in the morning, something like that. Anybody can come in. Last weekend we had a stabbing in the apartment. The police are there all the time. We have no security whatsoever. Are you not entitled to security? I remember around eight years ago, we had a man and wife superintendent and they had assistants, and every night from 11 o'clock until 2 in the morning they would check those floors; every floor, every

hour on the hour. That was fine. Things worked out good then. We do not have that any more.

We have one superintendent in our building. He has a full-time job at the university. He is supposed to be the superintendent. He does not do any work around there in regard to cleaning. If somebody is coming up to check the building, he gives somebody a few dollars to clean the hallways. This is a fact. These people will tell you.

Where is the justice? We are paying rent and we should be able to live with dignity. This is my big argument. A lot of people do not understand what goes on in these buildings.

Mr Turnbull: I am sorry I had to step out just as you arrived, but I have picked up what you are doing. I want to tell you I am very much in favour of us enforcing standards in this province. I think it is most important that everybody live in clean, safe accommodation. Separating yourself from the buildings that you live in now, in a general sense, if you live in a building which is not owned by the public sector, do you recognize the fact that a private landlord has a right to make a profit?

Mr Harrison: Oh, definitely, yes.

Mr Turnbull: Would it be reasonable that he should be able to make a profit over a number of years—I am not saying in year one, but let's say over the 10-year lifespan of an investment, because you always have to calculate when you sell it, whether he sells it in 10 years or not. Would it be reasonable, over the 10-year period of holding a building, that he should earn more money than if he were putting that money in the bank, because there is some risk involved in running a business as compared with putting it in the bank? Would that be reasonable?

Mr Harrison: It would be reasonable, but what I understand is going on with the landlords we have, they take the money out of them and invest it in other properties. This is what they are doing.

Mr Turnbull: Rents have actually gone up in this province, over the last few years, at less than the rate of inflation. The average over the last 20 years is that rents have gone up at less than the rate of inflation. Did you know that?

Mr Harrison: Well, everything else has, has it not?

Mr Turnbull: No, I am saying it has gone up at less than the rate of inflation.

Mr Harrison: Less. Okay.

Mr Turnbull: Did you know that?

Mr Harrison: I had some idea of it, yes.

Mr Turnbull: The statistic as to when accommodation becomes unaffordable—this is according to our own Ministry of Housing—is when your rent is more than 30% of your gross income; in other words, your income before taxes. There are some people who really cannot afford their rent. They are paying more than that.

Mr Harrison: Okay, I am going to give you an argument. We have apartments and every rent is different in those apartments. I am paying $60 more for the same apartment as they have down at the end of the hallway, but I have put more money in mine because I had to clean it up myself. I painted the place and I paid for that. But why should I be subsidizing somebody else? Is it because they are on a low income or what? Is this what it is all about? I pay taxes too.

Mr Turnbull: Actually, it is one of the peculiarities because we have had rent control for so long. If a landlord decided for some reason that somebody could not manage the rent and did not increase it, when rent controls came in, it has always been controlled at that level. So this apartment would keep on going up and would always be ahead by more.

Ms Hooper: I have been there 10 years. I am paying $487.80 a month for a one-bedroom. They have lowered the rents on one-bedrooms to $450 to get people to move in. On the guideline rent review sent out, there are seven people who are paying more than me and they have only lived there a year. I have been there 10 years and I am paying more than a lot of people.

Mr Turnbull: You can blame rent controls for that because people are controlled as to how much they can get and they are very reluctant to reduce it once they have that set.

Ms Hooper: I have had one year back-money that they did overcharge me; and another year that cannot be collected because the owners have taken out.

Mr Winninger: It is true that in many apartment buildings there are identical units that rent for different rents. Mr Turnbull gives the landlords the benefit of the doubt. I have yet to see a unit where the landlord lowered the rent because he felt sorry for the tenant.

Mr Turnbull: Well then, you are blind.

Mr Winninger: What was more often the case in the past is that a landlord raised the rent unlawfully and then, under the RRRA in 1986, registered that rent. So it became the lawful rent. If all apartments at the same base rent increased by the same amount, there would not be so much discrepancy, but because tenants come and go and some tenants do not know what the prior tenant paid, the rent can increase substantially. That is why you may have a $60 discrepancy. I doubt it is because of the reason Mr Turnbull cited, but your guess is as good as mine.

Mr Turnbull: You do not produce evidence to that effect.

Mr Harrison: Mr Turnbull, I do not want to be called a liar in anybody's presence. I am not a liar at all.

Mr Turnbull: I am not calling you a liar. I am suggesting that—

Mr Duignan: I would ask him to withdraw that remark, Mr Chairman.

The Chair: Order. Has any honourable member called another honourable member something unparliamentary?

Mr Turnbull: I did not call him a liar.

The Chair: What did you call him?

Mr Turnbull: I did not, but he seemed to infer that it was a lie. I certainly would say that what he was saying was a terminological inexactitude.

Mr Winninger: I resent that last remark.

The Chair: I have to tell the Mornington Properties Tenants Association that we are already three minutes over your allotted time. Thank you for coming.

1650

E. A. HOLDINGS

The Chair: The next presenter is E. A. Holdings for 15 minutes, and you can withhold some time for questions.

Ms Stevens: I am Joan Stevens. I am a small landlord. I do not have extensive resources, nor do I own a large number of properties. My units are older buildings—25 years plus—with very affordable rents: $440 for two-bedroom apartments, including heat and hydro.

I think this bill is terrible. The implications on my ability to operate the buildings and maintain the standard of housing are almost overwhelming. One hardly knows where to start. I think the first thing we should mention is the problem of overkill. We have had so many changes in the rent review rules that it is very difficult to keep up to the new rules. It is difficult to find out what they are, how they are going to be interpreted or applied. Rent review offices are not helpful. Primarily, there are so many rules, the officers at the rent review office cannot tell you the answer. You have to phone three times and take a weighted average of what their answer was.

Next comes a problem which has been touched on: landlord-tenant relations. The present attitude of the ministry, where the last minister stated he was allergic to landlords and gave the impression we should all be put out of business, did not assist our industry. We, the landlords and tenants, have to live together, preferably in harmony. The government should be promoting co-operation. The open hostility the government is nurturing towards landlords is unhealthy for all parties concerned.

The proposed bill does not compensate landlords adequately for the losses they have experienced as a result of Bill 4. This bill must be revised to allow landlords, who had applications under Bill 4, to recover their losses by consecutive yearly increases of at least 10% to 15% over the guideline until the costs of their renovations have been adequately reflected in the rents. These landlords should not have to reapply. The increase should be automatic for anyone who has already had a judgement. It is wasteful of everyone's time and resources to squander them on creating and processing another application. You already have a backlog of people who are going to have to reapply under a different act with different parameters and definitions. This is all too time-consuming and unfair to both the landlords and the tenants. It is going to really create a logistical nightmare for everyone.

The provisions of the proposed act dealing with capital expenditures are inadequate. The narrowing of the definition of a capital expenditure to exclude major appliances, replacement of flooring, etc, ignores the reality that these items were purchased at the same time and will be required to be replaced at approximately the same time.

The 3% cap over the guideline for capital expenditures is not acceptable. Many major repairs require more than the allotted 5% expenditure—the 3% plus the 2%. For example, if you are going to insulate and replace a roof it must be done concurrently for a flat roof. If I do it properly, I have to pay part of it myself. I could get a real cheap or an inadequate job done. I have a choice of ignoring the social responsibility of reducing energy consumption or I could reduce energy consumption and pay the difference out of my own pocket. Essentially the question is, do I take the money home to my family or do I spend it on my tenants? Do you spend your money on me or do you spend it on your kids? It is not much of a choice for you, I am sure.

As nice as it is to be socially correct, it is not practical to invest money with no expectation of compensation. Not allowing the real cost to be passed on is unreasonable. It is not in the best interests of the people involved.

In real terms, it costs $2,000 to $3,000 to take a 25-unit building to rent review. In my case, the extra 3% would amount to $3,400 a year. This would only fund an $18,000 loan at 10 years for 13%. You have to take administration costs off—$2,000 to $3,000—so you are left with $15,000 to cover the cost of a major repair. That amount will not cover the cost of a major repair such as replacing old windows, reroofing the building, rewiring, replacing pipes, etc.

This bill assumes that Murphy's law simply does not happen, that everything does not go wrong at once. The cap is simply not adequate for an older building. The guideline increases allow for two rates: one for units less than six and another for the rest. It assumes that old and new buildings have similar operating expenses. These assumptions are not correct. I urge you to revert to the uniform two thirds of the rent control index. We are already bleeding. We do not need to be squeezed further.

The rent review process no longer allows increases in interest rates to be reflected in rental rates. The government creates the economic conditions that cause interest rates to increase or decrease. The proposed bill makes the landlord responsible for any increase. Government must accept responsibility for its own actions—the increases of the interest rate.

I find the section of the act that deals with seizure of landlords' records very onerous. If you suspect a landlord is committing a fraudulent act, surely there is a way through the Attorney General's office or through other laws that exist to deal with this. I am not sure that we really need a rent police, in addition to Revenue Canada, the RCMP and the OPP, etc.

In closing, I urge you all to listen closely to what we landlords have said. We know what we are doing. We want to be proud of our industry and our properties. We must have enough room to make responsible decisions and maintain our buildings as they age. I think this committee has a challenge going into the 1990s. We do not need confrontation in government. We need compromise and conciliation. We need legislation that gives both the landlord fair compensation and the tenant adequate housing. This legislation is far too restrictive for the landlord.

Mr Tilson: Thank you, Ms Stevens. I think even the government will start to admit now that, with this legislation, rent review is out of control. It has just become too unmanageable.

I guess my question was surfacing in Toronto and I would like you to give me your perception as to the London area. What we seem to be hearing in the Toronto area is that landlords are saying: "We can't afford the capital improvements. The financial structure, the financial means that are being put forward by Bill 121 simply do not allow it. In many cases, we can't even afford the maintenance, so we won't do any. We'll do whatever it takes to keep the work-order people away and we'll survive until the rascals are thrown out of office." That seems to be the philosophy that is developing in the Toronto area. Do you have any thoughts as to whether that same perception is existing in this area?

Ms Stevens: I think increasingly, as people get their backs up against the wall, they become increasingly hostile. I personally try to say, "Am I really saying no because I think the government has gone too far or am I saying no because the money really isn't there?" So I have been particularly careful that I spent my full maintenance budget and so on. It is certainly in my best interest to maintain the building, but there is such a feeling of hostility on the part of landlords and I think you bear a real responsibility. I mean, when somebody says, "I'm allergic to landlords," it gives everyone the impression that we should all be tarred and feathered, and I am not that bad a person. My places are respectable. My tenants are supportive.

I had a building that was hit by Bill 4; 75% of my tenants are appalled that they might get some money back because the rent is so affordable. The four who thought that it would be okay if they got their money back are about 80 to 85 years old and they have some real income problems because they left their houses 10, 15 years ago. I can sympathize with that, but you bear real responsibility because as the hostility on both sides increases it is so much harder to co-operate and be harmonious. It is like having a divorce with two really wretched divorce lawyers in it, versus a conciliator between the two people. That is what you are building up.

You are building up such a venomous philosophy within the industry that it is frightening, truly frightening. I think you must address this. The biggest thing that comes out is the financial ability to make the improvements that must be made.

1700

Ms Harrington: I am not necessarily allergic to landlords, maybe just one in Hamilton yesterday, but—

Ms Stevens: I was not accusing you. I did see it on TV.

Ms Harrington: How many units do you have here in London?

Ms Stevens: I have 45 units in two buildings.

Ms Harrington: I really appreciate some of your statements. You want to be proud of your industry and your property and obviously these are the—

Ms Stevens: These are majority opinions.

Ms Harrington: I would like to believe that.

Ms Stevens: I have been in their buildings and they are not terrible. There are a few bad ones, but there are a few bad tenants too.

Ms Harrington: I do believe that landlords deserve their fair compensation and I do believe that we have to work together if we are going to get anywhere in this province. I have taken some notes about what you have said about capital expenditures for older buildings and I did want to let you know that we are looking at the older versus new buildings. My question though, to you: You mentioned right at the outset that the local rent review office is not helpful. I am wondering if you could explain that to me.

Ms Stevens: I did a rent review application and I phoned up two or three places to get help. It was $2,000 or $3,000; boy that was a lot of money. So I decided—I used to be a bureaucrat, I have taken accounting courses at a community college at night school—surely I can manage this on my own. But whenever I had a question I would call the rent review office and I would say, "What about this?" They would give me one answer, kind of vague. So, one day, I did not quite understand the answer, so I called back and I ended up with somebody else and got another answer. This is interesting, let's call back again. So the next day, I called back again and got a third answer. This is where I came upon the fact that every time you phone, you get different answers. They do not know the answers.

In Bill 51, you were allowed to amortize something over 10 years, 5 years, 15 years and so on, I am sure you are familiar with that. I phoned them up and I said: "You know, if I use a mortgage table, I get one number and if I use the at-payment function on my Lotus, I get another number. You just send me a list of your amortization schedules." I mean, this is fairly straightforward, you are going to amortize this expenditure over 10 years, tell me what the amount is because I want to be as close as possible. I do not want to ask my tenants for 5% more than I need and get them all excited because that is bad PR. It makes me look stupid when I get 5% less. It makes them worried because they think they are going to have to budget for 5% more and it makes it harder for us to live together. But the rent review office could not even provide the amortization schedules. They cannot provide you with a set of rules that you have to go by. Now, surely, anybody can sit down—and you must have a rule book that is this thick—if you can read it, I can read it. What is the hassle?

Mr Brown: London is a particular rental market. London is approaching what most people think to be the optimum market in that you are at 4% going towards 5% in terms of vacancies. Landlords have the economic difficulty that the real world presents in that you can only charge so much rent in a particular market. They also have this difficulty with the rent review system that is kind of imposed on you.

I was thinking about the 44% that we think we are going to get in Hydro increases over the next three years. That is subject to regulation as you well know. Not only is it a crown corporation, but it has to go before the Ontario Energy Board. All their costs are examined perfectly, at least supposedly—

Ms Stevens: But they are not landlords.

Mr Brown: But they are decidedly similar because Hydro's costs are hugely capital. I do not have a question other than to look at that regulatory system and the one we have here and how you come up with 15% in one and 44% in the other. It bothers me.

Ms Stevens: I wish to point out that as the owner of an older building, I do not live in a real world. I do not experience vacancy. I have people lined up waiting to get in my buildings; $440 for a two-bedroom in a nice building that is clean and quiet. People want it.

MICHAEL MOTORA

The Chair: Next presenter, Michael Motora. You have 15 minutes. You can withhold some time, if you wish, for questions.

Mr Motora: I am Michael Motora and I am property manager for two buildings in London with a total of 332 units. They have been held by my family since they were new in 1972 and they have been under rent control since 1975. We have never before been granted the opportunity to speak out on rent control issues. We always wished we would not have to. We rather had trust in the province that the bugs in the act would be worked out, that the controls were only temporary and they would be improved and simplified.

I believe that I am like thousands of other Ontario business people. You never hear from them. There is only so much time, only so much money and so much energy to do things. We would like to focus our attention on running our own business and we believe that you take care of the infrastructure.

It just seems, in the years we have been with rent control systems, that they do not work under any name, they cost so much money to maintain and our tenants are starting to notice it. We took our building to an appeal recently; they saw the lawyer fees just for the appeal process and they could not believe that we spent that much money just to get through an appeal which was to equalize rents, something that was a fair and just idea, to make all our rents the same. We used to do that automatically before controls, but now we have to spend the money and the time. In fact, we have been in this process three years, waiting for the computer to make up the equalization scheme.

If they knew the other costs involved, the hidden costs, like these meetings and everything else involved, the rent hearing board, the office space that is taken up. It is quite bad. I am totally in favour of lower rent increases or zero rent increases. I would be happy, but I am opposed to the way it is being done in this new regulation.

If you could control all our operating expenses and keep them low, I would be happy never to give out another rent increase and never receive another increase for my suppliers. That would be an ideal situation. It seems that the creators of Bill 121 calculated that an effective 2% increase will cover our increased operating expenses. I have just been looking at them. Our gas should be going up about 11%; hydro, 15%; water, 9%; municipal taxes, 13%. Just about anything that is not reclassified as capital expenditures is going up in the double digits and it seems we are only allowed 2% for operating expense increases. I cannot see how that adds up.

If the guideline increase is based on an index which accurately represented the bundle of goods our apartment buildings consumed, then when the index increased by 8%, our operating expenses would also have risen by 8%. So to provide just the same quality of service our tenants are accustomed to, we would have to pass on that 8% increase. The guidelines have never, in the past, covered even our increase and expenses and it seems that with the new controls, this disparity will be even worsened.

We work with limited amounts of money—just the rent that we collect—and we have to cover our expenses. I have taken pride in giving good service. You know, bright, clean and safe apartments to live in, but every year, there is so much more money needed to repair our aging buildings. So, maybe as a suggestion, if someone would set slightly more realistic guidelines to reflect economic realities or maybe set some guidelines based on the age of the building, older buildings needing more money to be repaired; or set higher guidelines for buildings that have been subsiding in the previous rent controls, that have been caught in the rent controls the longest.

I never did like giving out rent increases and I find this sort of offensive, the tone of the new rent increase forms that we are told we have to use. None of my suppliers or contractors give me notices like this when they tell me each year of their increases in cost. They always have something kind of nice in there, that they are sorry to have to increase but economic situations show that everything has to go up. I find the new forms I have to give my tenants make it sound as though, "I want to put up your rent and I am doing it by the guideline or less."

1710

There is a clause which I have never seen on other increase forms which offers a tenant, "If you want to dispute any increase, contact..." and it gives a number. That starts it off as an adversarial type of relationship. As soon as they get this increase, they start to feel: "This might be wrong. He might be trying to take advantage of me, and I should be able to fight this." So maybe as a suggestion, revise the rent increase notice forms to be slightly less offensive. Say something more like, "I'm sorry, but economic pressures force us to increase your rent this year by such an amount."

It seems that these forms were created to heighten the conflict between tenants versus landlords. Leave that fight in Toronto, or since this is an Ontario-based policy, forget about that fight. It is probably just Toronto where there is that strong adversarial relationship. In the rest of Ontario, we are more co-operative with our tenants. You can politically rile up people over most any topic. Please let the people relax at home and leave the fight somewhere else, not about the apartments where they live.

The issue of the search and seizure and rent police: This one is fairly new to me. I was only told I had this position to speak yesterday, and I just had a phone call about 15 minutes ago saying that my schedule was moved ahead almost an hour. I was trying to read through as much as I could on this issue. The rent police, it sounds like the

RCMP. They even have difficulty with trained officers doing search and seizures, and now apparently we need rent police, which implies that you are painting landlords as needing more policing than other business people. As a suggestion, treat landlords more equally with other business people. We are not a bad bunch. We are no different than any other business.

When will you extend this idea to policing tenants? Was that something that was implied in the act? I have not seen it yet, and I was looking for that. Since we know there are good and bad people and there are many more tenants than there are landlords, there must be more bad tenants than landlords. If you are only policing the one side, how do you counter these new rights and powers that you are giving to the other side?

The issue of unreasonable maintenance enforcement: The more power you give the tenants to act on behalf of all tenants, the more responsibility you are giving them. When they can act as one for the whole building, the consequences are much larger; tens of thousands of dollars in the case of our buildings if they can hold back a rent increase for—I heard someone today say it is not just five months, effectively.

Maybe as a suggestion, and maybe you already have this, to reduce the misuse of this power of freezing or rolling back rents, have the increase paid into a trust fund so that after the dispute is settled, the money can either be given back to the tenants or given to the landlord, so that this ability to freeze the increase is not misused to keep the tenant from paying money if he knows he is leaving or just to help him cover a momentary lapse in his budget, that he does not have enough to pay the rent. Maybe the tenants who misuse this new power, make them financially liable for their actions, at least to cover the legal costs involved in the landlord defending himself.

I really hope you can and will do something to amend Bill 121. Of course, I do not know the political pressures you face in putting together these recommendations. One of the comments I heard today—it seems I still have a little time and I would not mind speaking about it again—it sort of frightened me. I was here this morning when one member from the panel flung a flippant question to one of the presenters. To paraphrase it, it was something about: "Sam Katz, an immigrant and now a multimillionaire apartment owner, just invested $20 million in building housing in Israel, and he is not here today complaining that he is going to go bankrupt. How come you are here complaining?" That is something I heard this morning.

I left after hearing that and I started to make my notes on what I wanted to say. You can take one instance in anything, but that developer has so many other businesses that he makes his money from. There is not that much money in just the renting of apartments and I hope the other members of the panel know this. Besides that point, would it not be much better to create the business environment in Ontario where such developers as this fellow would reinvest the money they have made in Ontario rather than taking it out of the country?

I really thank you for the opportunity to be heard.

Mr Brown: I was interested in your observations about the cost of this entire system. It is not just a cost to the taxpayers of the Ontario, it is also a cost to tenants who have to go before these tribunals and reviews, and obviously a cost to landlords. You would be interested that I did a little calculating on what we might expect in terms of capital expenditures allowed—the 3% that people could conceivably be allowed. If things are very optimistic, it might be somewhere between $60 million and $80 million in the entire province. There are many reasons why it may not be that high. Considering the system costs at least $40 million for the government to administer, and landlords and tenants are into probably a similar sort of cost, the cost-effectiveness of this system is remarkably low if you look at it.

I was wondering what positive suggestion you might make towards looking out for tenants in terms of keeping away from the large increases. I think that is what all tenants have a problem with. It is not the 7% or 8% raise particularly; it is the 30% raise that people have affordability problems with. What is your suggestion that would be simple, that would not cost the government of Ontario $40 million, that would not cost tenants or landlords a great deal to administer?

Mr Motora: We found in the past that having the current maximum amount that you are allowed to charge, if there is a lot of trust between the government and the landlords, you go to your appeal, you do your renovations, and your rents are set higher at the current maximum, and then you allow us to be flexible using the current rent that we charge. We are not going to give the full whatever per cent—let's say it is a 20% increase—but then you leave it to the market to say, "Okay, we'll only charge maybe a 5% increase." We know in the backs of our minds that we have done our work, our renovations; and our rents are set legally at that high current maximum.

I always liked to have a large gap so that our buildings could fluctuate with the market demand. In our neighbourhood, if the building down the street offers some kind of an incentive, we want to too, to be competitive and attract the tenants.

Mr Tilson: Two short questions. Your comments with respect to search and seizure were interesting: the very fact that a search can be made of a landlord's premises immediately whereas for the tenant you need 24 hours' notice plus at reasonable hours, all of which proves that old political maxim that all people are created equal but some people are more equal than others.

I guess my question to you is with respect to the increases in taxes, wages and insurance that are capped. Obviously, you make that application, but if it is over and above the cap, you are out of luck. The government members will tell you: "Well, landlords, you have been making money over the years. You have been making enough profits. You have been ripping the system off. You've got lots of money saved up. You're rich. You should be able to absorb that, because the tenants certainly can't absorb your passing it on." What is your response to that sort of attitude?

720

Mr Motora: I disagree the money has been saved up ver the years, as the government would tell us. Being nder rent controls since 1975, they have not allowed ndlords to stockpile that kind of capital nest-egg.

Mr Brown: Good point.

Mr Motora: You just have enough, and each year it is ot quite enough to cover your expenses and that is why e go for appeals and try to get the rents up; but even that s so time-consuming that you try just to live within the ules. You believe what you hear that the next party that omes in will either simplify the system or they will abol-sh the system. There is always something that is in the orks. You just put it off hoping that one day you will be ble to make money, and for now, just make ends meet. et the building go down a little bit just to keep your xpenses equal with your increase and hope that some day ou will let us come back up.

Ms Harrington: I will just briefly comment and I will sk Mr Winninger to comment. Your ideas about a revised orm for rent review—

Mr Motora: No, it is a rent increase.

Ms Harrington: It has been a long day. Your revised orm sounds like an interesting idea. I just wanted to check ith you, do you go often to rent review or are you able to nanage without going to rent review?

Mr Motora: Unfortunately, because it is expensive to ake the building to rent review, we try to stay away. The irst time the building was taken to rent review there was a ot of media hype about large increases, and we were not oing for anything—I think we went for about 6% or 7%. t was nothing really. But because of the media excitement bout rent increases, when our tenants received the notices aying we had taken the building in, and there was a year etween the time they got the notices and we got some ind of feedback, during that year we lost most of our uilding; about 60% of our tenants turned over. They were fraid of what might happen. We kept assuring them that it s nothing that we are asking for. It is just a little bit over he margin.

Ms Harrington: So you do want a better system. Mr Winninger would like to comment.

Mr Winninger: I just got the tail end of your presen-ation. I am sorry. I had something outside. But this idea of earch-and-seizure provision has come up again and again. We have to be mindful that similar provisions already exist n other statutes, like the Securities Act, the Corporations Act, Income Tax Act, these are all search-and-seizure pro-isions, but the landlord who abides by the law and does ot do anything illegal has nothing to fear. It may be some-hing new in this particular legislation, but it certainly is ot without its precedents elsewhere.

Mr Motora: You paint all landlords as though they re criminals by saying that you need the special police to ake care of them or rental police to take care of the bad nes. Have you painted the tenants the same way?

Mr Turnbull: Since we are through the presentations—

The Chair: No, we are not. We have Neighbourhood Legal Services and then we will be through.

NEIGHBOURHOOD LEGAL SERVICES

Ms Harper: My name is Cynthia Harper. I am a staff lawyer at Neighbourhood Legal Services. I thank you for the opportunity of attending today. Neighbourhood Legal Services is a local legal clinic in London and we represent low-income tenants in London and the county of Middlesex. I should advise you that we do not do rent review per se, although we are involved in rent review issues because we do handle a lot of landlord and tenants matters in London. Tonight I would like to express some of the concerns that have been expressed by our clients.

Typical examples of complaints or questions we get from clients include issues of maintenance to their premises. They are concerned about large rent increases and, in fact, in London recently there was an increase of 25% of their rents, and tenants live in fear of that sort of thing. We welcome the changes to the legislation which are addressing that. We also get questions which are just basically, "How much rent am I supposed to pay?" or "I've got a notice of rent increase and I do not understand it." As well, a lot of tenants are concerned about what their rights are to enforce what rights they do have under the legislation. So I would like to address those issues tonight.

One thing I have heard since I have been here tonight is the distinction that is being made between landlords of larger buildings and smaller buildings dealing with the guideline increases and the carry-forward provisions. This is of concern to us because we have a lot of clients who actually live in smaller buildings in London. In fact, there are a lot of students in London as well as other tenants who live in these types of buildings. A lot of our clients are low-income so we see the concerns they have.

One of the concerns being expressed is that this will discriminate against tenants who are in smaller units. We feel this adds unnecessary complexity to a system that is already very complex, and is rarely understood by tenants. Our experience has been that when tenants are living in smaller buildings, in fact they are getting less facilities than when they live in a larger building. For example, I have many tenants who cut their own grass, do their own snow removal, do not have a superintendent who is available at the building to do repairs, and just do not get the accommodations there are in larger buildings.

I believe the minister, as well as others, has said the reasoning for this is that there are larger costs involved in smaller buildings. I have seen no studies that have been done and I have seen no evidence to support this allegation. In fact, as I say, I would say some small landlords have less costs associated with their building. So we question why this provision is here and what the reasoning is behind it.

Another concern we have experienced is that tenants who live in smaller buildings cannot find out what rent they should be paying. With the rent registry provisions, the smaller units, the one, two and three-unit buildings do not have to register. This is of great concern to us.

We have experienced tenants calling us and saying, "I've been told by another tenant that they pay X dollars of rent." I cannot find out because there is no order that has been registered with rent review, so I have nothing to guide me. This landlord of course has not registered. We are finding it is this type of tenant who suffers abuse most often by a landlord in this situation and we are concerned that these tenants are not being offered the protection available to tenants in larger units or larger buildings with more units. We feel they should be provided with the same protection as other tenants.

We of course look forward to the introduction of the registering of buildings with four, five or six units, but we ask that it is ensured that sufficient resources be made available to the rent registry to make sure that it functions properly. We know there have been problems in the past, and we ask that there be enough resources to ensure the system is going to work.

We also welcome the provision in the act that it is an offence to fail to file a statement of rent information within the time required, and that this is a continuing offence. We hope the Ministry of Housing, and possibly the Attorney General, will actually utilize this section, and landlords who fail to register when they should will be penalized in accordance with the legislation.

As I have said, one of the concerns we have is that a lot of tenants feel they are paying illegal rent increases. We welcome the increase of the monetary jurisdiction to $5,000 and we were also concerned that tenants were being faced with having paid this money and not getting interest returned to them. So we welcome the provision of the interest award.

Again, we have concerns that the bill does not address enforcement of provisions concerning legal rents. For example, there is no provision in the bill for registering a rent review order as an order of the court and having it then enforced by the court.

We get many calls from tenants who have managed somehow to get through the system and bring a section 95 application under the RRRA and get an order, but then they have no way to enforce the order, and they do not know what to do. We suggest provisions be made that provide for proper enforcement of orders made when excess rent has been paid, that there be assistance provided from rent review to tenants who want to enforce orders they have, and that adequate provisions be made for enforcement.

One of the things we ask is why it is not an offence under the act for a landlord to refuse to pay a tenant pursuant to an order that has been made for excess rents. Certainly, the act has been improved in many ways by providing other offences, but this is not an offence under the act. We ask that this be provided in the act in the penalty section; this should be of great assistance to tenants.

1730

Dealing with offences under the act, another concern we have is that any prosecution that could be brought under the act for these offences be done by the Ministry of Housing or the Attorney General. There is little teeth in the legislation when a tenant cannot actually use these penalty offences. We have seen this happen under the Landlord and Tenant Act, where the Attorney General's office will refuse to actually bring a prosecution and it is up to a tenant to then lay an information and prosecute on his own, and it is a disincentive to even consider laying any complaint or seeking recourse through the courts. We also ask that there be included in the legislation a provision that where a prosecution is brought and a penalty imposed, a judge be given the power to order restitution to the tenant for excess rents, if that is a penalty.

One of the major concerns we are hearing from tenants in the London area is the lack of repairs to the buildings. Maintenance is a serious concern to them and I understand this has been addressed numerous times before you today.

The legislation does attempt to address this by providing for the grounds of inadequate maintenance. One concern we have is that the term "inadequate" has not been defined. We are also concerned that in the past tenants experienced long delays in getting work done, in going through the standards board and so on. We ask that the system be such that these delays are minimized and when there are inspections to be done and so on, that adequate money be provided for inspectors to ensure the system actually is efficient and is being used in a way that is useful to tenants.

The previous speaker has mentioned some of the complexity involved in rent review and I want to mention briefly that we get a lot of tenants calling who have received notices or orders and who say, "I have no idea what this means." So we ask that any forms or orders that are used be in clear, simple English language that tenants can hopefully understand. Thank you.

Mr Winninger: It was always my understanding, at least under the old rent review legislation, that if you got an order from rent review services or the board higher up, and the landlord failed to comply with it and repay the money owing to the tenant, you could enforce it through what was then the county court, now the Ontario Court (General Division). I know Mr Armstrong, who appeared earlier for the tenants' protective association, has had many times to enforce these orders through the courts. Are you saying the provision is not there but somehow they are getting through?

Ms Harper: No, I am requesting it be made clear that this is something you can do for the enforcement of the order. We find that tenants often have no idea you can actually enforce this in the Ontario Court (General Division). It is not in the legislation and at times they are not being told that by rent review. So we would like it spelled out that these are the ways you can enforce this order and that they be given assistance.

Mr Brown: The first part of your presentation dealt, if I heard you right, mostly with having everyone treated the same. All tenants should be treated the same, whether they are in small units, large units, it is something that should happen. I was wondering what your views would be on having municipal, non-profit housing—government housing, per se—included in this legislation, which it is not; it is exempt. Within that there are people at market. I was

wondering if you think that should happen. This being a niversity town it may be useful to ask whether you think tudent residences should also be included in that.

Ms Harper: This is something I had not prepared a resentation on, but certainly we would say, yes, they hould be covered by rent review legislation. They face the ame problems other tenants do and should be covered by ie legislation.

Mr Tilson: I have made a note of some of the particuars you have raised and your suggested amendments, but s you were talking I listed the people who are involved in his system and there are probably lots more; people who roduce forms, administrative personnel, judges in the ourt system, lawyers, property managers, rent review pocemen we are now getting into, lobbyists, accountants, nspectors, hearing officers, computer operators, enforcement officers, property standards officers—when will it top? How much can the taxpayer bear?

I do not know whether you will admit it or not, but in ny perception of this law, whether it is direct or indirect, it s going to be great for people like you because no one nderstands what the heck is going on. We are going to ave to hire lawyers for both the tenants and the landlords ist to explain it to us. My question to you is, and hopeully you will be unbiased, how much can the taxpayer fford to do all this?

Ms Harper: We have a system now that involves the ame expenses and the system is inefficient; we have seen hat. I think the government is recognizing that rent conols are a necessary part of landlord and tenant relationhips in Ontario and that there is expense involved, but hat the expense is necessary to protect tenants and, at mes, landlords as well.

Mr Tilson: The last speaker was a small landlord and e indicated that he simply cannot afford it. It is so costly o go through the whole process. He does not understand what is going on so he hires all these people and he cannot fford it.

Ms Harper: One thing we are suggesting is that the ystem be simplified to make it much easier for both landords and tenants to utilize the system that is there.

The Chair: Thank you for your presentation.

Mr Turnbull, you had a point earlier on.

Mr Turnbull: Yes, Mr Chair. Mrs Harrington, on several occasions, I think in Hamilton and in London, asked uestions and she did not get a satisfactory answer from nybody of a specific number as to what a reasonable rate f return would be. Two gentlemen were here from the ondon Chamber of Commerce, one of them was with ondon Life. In speaking to him outside I learned there is omebody in the audience who is somewhat of an expert n that. He works for London Life and is specialized in hat and also has an apartment building investment. I suggest we bring him forward now and ask him those quesons so Mrs Harrington's questions could be satisfied.

The Chair: Is there any discussion?

Ms Harrington: I do not think any one person has the whole answer. I am asking various people so I can get an idea of what people feel about that.

Mr Turnbull: But you did not get a specific number. Nobody answered you with the number.

The Chair: Why do we not think about this and maybe tomorrow before we adjourn—

Mr Turnbull: No, the gentleman is here in the audience. I do not know what his name is, I am sorry. But it was pointed out to me that he is somebody in London Life who specializes in that sphere.

Ms Harrington: It is up to to you, Mr Chairman, if you feel we have the time.

The Chair: I am driving to Windsor. Everyone else has a bus, so I do not know what other transportation arrangements have been made, if there is anyone else driving.

Mr Turnbull: I do not think it is going to take many minutes to ask these simple questions.

Mr Tilson: Mr Chairman, I do not think it is going to take very long. Why do we not just take five minutes?

The Chair: You will never do it in five.

Mr Tilson: How about 10?

Mr Brown: It would be useful. He is here.

The Chair: He is here. It is going to be useful. What is the consensus on the time? Can we ask the gentleman how long he thinks it might take. We will take 10 minutes. Mr Turnbull, what is it exactly that you want?

Mr Turnbull: Specifically on apartment buildings. Could you identify yourself for the record?

GARY MILANI

Mr Milani: I am Gary Milani. I was originally at this meeting to represent myself as a small landlord but I have been picked out also as being from London Life in the area of investment, specifically real estate.

Mr Turnbull: My question has been asked several times by several members. Given the fact that real estate by its very nature has a risk factor attached to it, I presume you would expect a higher rate of return than the bank. I am not trying to give you an answer, I am just saying I presume that is the case. Let's assume you were to measure it over a 10-year period, what would be the internal rate of return that you would anticipate?

1740

Mr Milani: Actually, I can talk very briefly to that and give you an answer that is common in the industry. We expect returns of a minimum of probably 12%; and where you have smaller centres, where risk could be greater, you are probably looking at closer to 13% or 13.5% as an expected return on any real estate investment, whether it be commercial, residential or other.

Mr Turnbull: Is that an internal rate of return you are using?

Mr Milani: That is definitely an internal rate of return that is calculated through cash flows and some reversionary value on the properties.

Mr Turnbull: On what number of years? On 10 years?

Mr Milani: It can be 10 years, it can be 15 years. Commercial typically is easier to determine, given the length of the leases. Residential is much more difficult to determine, obviously, because we deal with legislation.

Mr Turnbull: For the record, could you just explain technically what "internal rate of return" means?

Mr Milani: Internal rate of return is taking an initial investment of X dollars and getting some kind of cash flow on a year-to-year basis, projecting what your asset is worth at the end of the 10 years or 15 years and then discounting all of those cash flows and the reversionary value back to a present date. Based on your investment, you will get an interest rate.

Mr Turnbull: Is that before or after tax?

Mr Milani: Those numbers I threw out to you are definitely before-tax numbers.

Mr Winninger: Is it net return, net of all expenses?

Mr Milani: Absolutely net. That is the return on your equity investment in the property.

Ms Harrington: So that includes your capital gain.

Mr Milani: Absolutely. I can tell you right now that I am not speaking for myself specifically or London Life—it is an industry standard. I guarantee you can go to any major appraiser—there are many of them in Toronto—and he will tell you exactly the same. There are a lot of surveys out there to indicate that.

Ms Harrington: For instance, if you took any particular building and then, say, held it for the 10 years or whatever and sold it and got your 12% at that time, during all the interim period you would not be expecting 12% every year.

Mr Milani: No, not necessarily, because return on investment is usually somewhat lower. It is a combination not only of cash flows but also of your sale value. Quite frankly, you are expecting some higher value for your real estate at the end of the line, and so that is part of the contributing factor to getting an internal rate of return.

Ms Harrington: So what would you say would be the percentage operating in the interim period?

Mr Milani: It depends. If you look at the situation today in residential, you are probably into negative returns. I do not need to tell you. You just have to look at surveys and indicators in various cities in this province and you will find virtually none of this real estate is trading. I am speaking specifically of residential. You will also find that major institutional players are getting out of the business.

Ms Harrington: What would you say would be a healthy year-to-year operating type of return?

Mr Milani: Without any kind of financing attached, on just straight value of property you are looking at probably rates of 8% to 9% going in. Given the condition of the economy today and also the situation of legislation and the uncertainty, you are probably looking at higher to 10% going in. It is not happening. That is why sales are not happening.

Mr Turnbull: Could you just clarify that? You are meaning that in order to make it an attractive investment initially, it would have to be 8% to 10% today.

Mr Milani: Yes, it definitely would have to. You are not going to get the growth and capital appreciation, so you have to depend more on your cash flows. That is the way any investor is looking at it today.

Mr Turnbull: That would be a net return in year 1 that you have to have.

Mr Milani: Yes, absolutely. We have seen properties now up for sale in Toronto that are trading at 10% initial return, and that was unheard of two to three years ago.

Ms Harrington: I rented out a property 20 years ago and all you had to do was cover your basic costs and of course with the escalation in the value you would certainly make a very healthy profit. It all depends.

Mr Milani: That is why a lot of landlords are here today. I should not be here criticizing, but that is why we are here. We are seeing declines in values of property simply because of the uncertainty of this and certainly the negative way in which this legislation is going to work against landlords. We are losing ground drastically. That is why everybody is turned off by these kinds of investments today.

Mr Frankford: Your cash flow is going to be influenced by the occupancy rate rather significantly, is it not?

Mr Milani: Certainly it will be, but typically with residential it has not been that bad in the past. We have had some glitches. I think, because of the type of legislation the Liberal government had put in place, as someone mentioned earlier. It probably came as close as possible to narrowing the gap, and that is why you see vacancy rates in the cities—Mississauga and London are prime examples—that have escalated considerably. Many landlords with higher rates of monthly rent are not even achieving those rents. There is where you are getting a free market effectively controlling the rent, and not rent control itself. I am just saying that gap is probably going to change with this kind of legislation. The vacancy rates will start to decline again.

The Vice-Chair: Thank you. I think you have provided the committee with some very valuable information.

The committee members will be happy to know it is now time to adjourn. We will commence in Windsor at 10 o'clock in the morning.

The committee adjourned at 1752.

CONTENTS

Wednesday 21 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1371
MCI Properties Inc G-1371
Twin Elm Estates G-1373
Tenants Protective Association G-1376
1095 Jalna Tenants Association Inc G-1378
Marshall Resources (Ontario) Ltd G-1380
Federation of London Tenants Associations G-1382
Sifton Properties Ltd G-1384
Park Towers Tenants Association G-1386
Waterloo Regional Apartment Management Association G-1388
Freedom Party of Ontario G-1390
London Property Management Association G-1393
Meneset Mobile Park Inc G-1395
Ira Jelinek G-1400
Key Property Management G-1401
London and District Labour Council G-1404
London Home Builders' Association; Norquay Homes Ltd G-1405
Carlton Group G-1408
Southwestern Ontario Tenants Association G-1410
Carport Structures Inc G-1412
Joseph Hoffer G-1414
Dave Southen G-1416
London Chamber of Commerce G-1418
Mornington Properties Tenants Association G-1420
B. A. Holdings G-1423
Michael Motora G-1425
Neighbourhood Legal Services G-1427
Gary Milani G-1429
Adjournment G-1430

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Rent Control Act, 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

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Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 22 August 1991

The committee met at 1000 in the Hilton Hotel, Windsor.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise he Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relaives à la réglementation des loyers d'habitation.

The Chair: The standing committee on general govrnment is called to order. The committee is reviewing Bill 21, An Act to revise the Law related to Residential Rent Regulation, better known as the Rent Control Act.

The committee has scheduled a full day of hearings for Windsor and area. We have a full slate of presenters for his morning and this afternoon.

WINDSOR HOMELESS COALITION,
UNITED TENANTS OF ONTARIO

The Chair: The first presenter is the Windsor Homeess Coalition, Joe Crouchman. Joe, how are you doing? oe, the committee has allotted you 15 minutes for your resentation, and you can withhold some time for quesions and answers if you wish.

Mr Crouchman: Okay, thank you. It is very good to ee you again, Remo, after 20 years, and to see so many ood friends around the table here.

I, as you probably are aware, was elected recently to he United Tenants of Ontario as a southwestern region epresentative, but I am also chairman of the Windsor Homeless Coalition. Our bill orientation hearing for our roup, the United Tenants of Ontario, is this weekend in Kingston, so I am somewhat embarrassed at presenting omething that I really do not even understand, Bill 121, o you have to bear with it that my presentation is a preentation on behalf of the homeless.

I have cards I gave to Deborah, if she could give them o each member. I am also the international chair of the Homeless Coalition of Windsor and Detroit. Most of our eople, 90% of our people, are illiterate, and in the meetng last night they came up with two things: One is that ney want rent controls, and they want accountability of andlords.

I tried to read Bill 121 to these people, and it is very ifficult to explain it. The Bill 121 quick summary from ne United Tenants of Ontario is that new buildings will ot be covered by any rent regulation for the first five ears—no rent registry ever for one-, two- or three-unit uildings. All illegal increases from 1985 to 1990 can form ne basis for legal rents for four-, five- or six-unit buildings.

Rents can be increased above the guidelines if the tennt agrees to renovations being done in the unit, or addition of services. Tenants may be pressured to make these agreements, and low-income people will suffer.

There is no provision in this bill for the homeless we have in this province. One of the very sad parts about me leaving Windsor and going to the Toronto convention of United Tenants, is seeing the large number of homeless people on the streets. The sitting members of Windsor can be very proud that we, in Homeless Coalition, have the most unique concept in North America with dealing with our homeless situation.

Prior to the bus strike, we sent many of them to Detroit to churches through the International Homeless Coalition. It has been somewhat of an embarrassment since we have had a bus strike for two months and we cannot send them, so our homeless have increased threefold.

Bill 121 has to address the question of human rights, dignity and the homeless, and if there cannot be a provision in it somewhere, as a leader of a coalition group I appeal to you personally that it has to be included.

There is a concept within United Tenants of Ontario and within the Homeless Coalition that we are very proud of the bill and many, many parts of it. We are very proud of the Honourable Dave Cooke, and we are very proud of the party and the work that we have done as a tenants organization. Our tenants organization can be very responsible for the election, probably, of the NDP. We want to continue to support Bill 121, but we want to be able to have more input into understanding it and having some education programs addressed to the homeless and to the illiterate people in the community who do not understand it. We want a combination of a landlord-tenant advisory bureau of some concept, so that we can work together and not fight any more. We found in Windsor, by working with landlords and by working with tenant organizations, we were able to achieve more, and not go to the courts.

Mr Tilson: The very last point you raise is one that has surfaced throughout the hearings, and that is that you do not want to fight any more. There is no question that all landlords and tenants are feeling the same way.

The difficulty was, of course, that this Bill 121 encourages the very fact that delegations that come to us, they are either landlord or tenant, and they are at opposite ends of the poles. This legislation encourages that, in fact, it makes it even worse and it gives many of us great concern. Do you have any thoughts on that?

Mr Crouchman: Yes I do, because I found that as leader of the Homeless Coalition, by working with the landlords and by making and ensuring that repairs are done through volunteerism at low cost, we are able to get our homeless off the street and into buildings. It is very necessary for tenant groups to work with landlords, to make sure that landlords are making money, and that there is money available for homeless people to get into these existing

facilities. There has to be some kind of communion with these people, and we have to stop the fighting and the bickering.

We have been successful in Windsor. It is the most unique city in Ontario, and if you go around—I ask any member to find a homeless person on the street, but when you go into your own communities, you know how bad it is. But we have a unique situation here, because we work with landlords, we work with tenants associations, and we hope this will continue.

Mr Tilson: There are statistics all across the United States and Europe stating that, in fact, rent control causes homelessness, just the very economics of it, and there are quite detailed statistics. Several presentations have been made, specifically from Sweden and the United States, during Bill 4 hearings and during the Bill 121 hearings that have presented those facts. Do you have any comments as to what they have said?

Mr Crouchman: Yes. In particular I am referring to the Santa Monica project in California and certain areas where these statistics are true, but in our situation, our homeless people do not have any money, or are not on disability payments to rent, so we end up getting them government subsidies through mental disabilities, physical disabilities, and getting them into nursing homes, so it is a different situation. There have to be affordable rents.

I have 15 people in an office building right now who cannot afford more than $150 a month, and I cannot find $150-a-month apartments. There should be some type of rent control so I can put those people in.

Mr Tilson: I think that is the difficulty with this legislation in that it is not rent control; it is rent review. It allows increases of up to 8% annually, and part of that can be automatic, depending on what the specific application is, which people simply cannot afford. I guess that raises the question I have been asking to delegations in Toronto and the very cities that we have attended to: Is what you are talking about a social problem as opposed to a housing problem? In the same way that people have problems finding food, clothing, just general living, for the type of people you are representing and speaking for, should the government be looking at a form of subsidy as opposed to rent review, which is what this legislation is?

Mr Crouchman: Well, we do have the subsidy which is going in for the homeless—when, is it next month or is it the following month? The Legislature just passed some homeless—but that is only going to be a one-time subsidy. What is going to happen after that two-month rent runs out?

Mr Tilson: This legislation will allow the increases to continue, there is no question. Those are my questions.

1010

Mr Mammoliti: Sir, thank you very much for your comments, more specifically the ones that said you are proud of us and proud of the minister. We appreciate that. I know that the minister has worked hard—

Mr Mahoney: We now know who is responsible for the election. We were looking for you.

Mr Crouchman: But I am also a very good friend of the Liberals and the Conservatives. I just changed a little bit when you guys changed; that is all.

Probably the man I know more than anybody is Remo Andy Brandt and I go back to the early days.

Mr Mammoliti: I am sorry about that.

Mr Crouchman: Thank you, George.

Mr Mahoney: Do you want to pass now, George?

Mr Mammoliti: The question I have for you, sir, is, I would like to find out about the previous legislation and how that contributed to homelessness in Ontario. Perhaps you can elaborate for us on rent review and what that did not do for the homeless.

Mr Crouchman: George, you have obviously done your homework, because I ran in the last election and I was evicted election day. Mr Dadamo was the man I ran against and I actually was not running against him. I was wearing a red coat at the time and I guess Mr Wrye did not show up and Mr Dadamo got elected.

We were losing in the courts. The Landlord and Tenant Act had no effect whatsoever. The homeless were losing every case that we would take into courts; one building in particular I brought 900 cockroaches from and was ready to unleash them in the courtroom to show the judge how bad the building was.

This new legislation addresses a lot of things that we are very proud of and there are some great advances. It is hard for us to understand them, but we are going to go along with what you are doing because we believe in what you are doing. We spend our weekends, as the United Tenants organization—I go to a conference every weekend, learning the same way you guys are learning. It is not easy for us to learn government and learn what we are doing, but I think we are a dedicated group of people and we are doing a good job, and in particular our members here.

Mr Brown: Joe, you raised some issues that I think are of concern to us. One of them is that rent review or rent control or whatever you want to call it cannot be seen in isolation from the rest of housing policy. The government tells us it is studying general housing policy, but yet it is proceeding with a rent control bill now, before it can be seen as a component of that. Some of us have some great difficulty with seeing how you could take a piece of the puzzle and decide what it is before you decide what the overall strategy is. But the one thing you said that really concerned me, and maybe you could just elaborate, because I do not quite understand the issue, is that you bus homeless to Detroit. Could you explain a little bit about that, just so it can be helpful to us?

Mr Crouchman: The Detroit community—unless you are from the area it is difficult to understand. They have a large religious spiritual community in which they open their churches at night time after 5 o'clock. So at 3 o'clock, when our eating places close downtown, we do not have the churches and we do not have the facilities and the housing for these people. So what we do is we arrange for them to go to downtown Detroit. They have 18 buses waiting in the downtown core area, and they take them to

he churches and they bring them back and they eat here in he downtown area and they stay in Windsor. We try to ouse as many as possible, but during the recent bus strike ve have not been able to do that because there are no uses to Detroit.

When I got elected international chairman—and it is eally ironic, the group that is doing most and spending nost of the money and our phone bills and everything and ur offices are the Hare Krishna group, and not one of us re a member or affiliated in any way with them. Walter Reuther's daughter is living at the temple there and I think Henry Ford's grandson is married to her and they feed and lothe and they help. We are using the International Homeess Coalition movement to help with the Windsor situaion and to teach us, and we are learning how to cope with he problem.

I have a package that I am going to leave with Deborah vhich will explain that program, show you pictures. I hope hat you will all keep it in confidence, because one of the hings with the Homeless Coalition is a lot of homeless eople do not want to be known as homeless. You see my ard; I have a "Confidential" stamp on it. It is a stigma. It s really—there is something lost there. I would hope that ou would share this package and I would hope that we vould be able to get away from this kind of thing and be ble to support our own homeless.

The Chair: Joe, thank you for your presentation. Time has expired.

WINDSOR-ESSEX TAXPAYERS COALITION

The Chair: Windsor-Essex Taxpayers Coalition, Mr Marc Baker, 15 minutes for your presentation and you can eserve some time for questions and answers, if you wish.

Mr Baker: Great. I am a member of the local taxpayrs coalition. Basically we monitor municipal funding and ry to achieve some type of accountability with the taxes ve pay.

It seems to me the problem today in Ontario is the conomy. We compete with the US. We are in a world conomy. People shop in the US, businesses are moving here. One of the reasons is government spending.

Rent control is a big element of that spending. The Liberal rent review program was budgeted at about $40 million in their last year in office. According to the Windor Star, NDP provincial projected costs of the housing ent subsidy over a two-year period will be approximately $570 million.

What happens when the government becomes a real state developer is that taxes have to be raised to pay for hat. The reason that the NDP was elected in the first place vas a protest vote against the spending policies of the previous governments. All the previous governments put n rent control and they all eventually were kicked out of office. The Tories started rent control in this province.

Rent control is one of the most disastrous policies to he economy. As our taxes go up, we have less and less noney to spend on whatever we want to spend on. When lection day comes and the taxes go up, which they have o in Ontario if the private developer is not going to be uilding buildings and the provincial government is going to become the developer through non-profits, there are not going to be any tax revenues reaped from this building project, because though the non-profits pay property taxes, the rent subsidies neutralize that. Those buildings are a drain on taxes for ever. So eventually those buildings will end up costing more in tax revenues than they bring in, whether they are federal dollars or wherever those dollars come from. It is the overall tax burden that the citizen sees when he goes to vote.

You can blame the Tories for a while for the tax problem, but it is not going to work for ever. For your own self-interest I would recommend doing away with rent control so you would not have to raise taxes an incredible amount.

Tax freedom day this year was August 2. That means that every person in Ontario worked seven months out of the year to pay his tax burden. That means that every day that I went to work, four hours and 40 minutes was to pay taxes, meaning I was working for something other than to support myself. Three hours and 20 minutes this year of every eight-hour day was the amount that I earned that I kept.

Now you project a $10-billion deficit. That is only projected; it has got to be more than that. There are already indications that it is a conservative element, so that means that next year I will be working more than four hours and—what did I say?—20 or 40 minutes a day for these services.

1020

Recently I received a letter from Mr Lessard. I own my condo and I am not a tenant, so I do not know why I receive rent control legislation literature. It seems sort of costly. Anyway, he says, "In Windsor-Walkerville we found that tenants have been victimized by rent increases of up to 81% a year," buildings in the 1200 block of Ottawa Street and 1300 block of Pierre Avenue.

I have the rents on this unit. My lawyer represented the owner of this building at rent review. First of all, it is one building, it is not two buildings. Second of all, the rents did go up 81%, and, you know, you used the word "victimized." If the landlord did something criminal which you are accusing him of, I would recommend you bring him up on charges. There is plenty of legislation already existing against tenant intimidation.

I do not know your definition of victimization, but the rents in that building went from $200 to $360. That is way below the market rents for non-profit buildings, which are $550 or $600. I do not see how those tenants were victimized, due to the fact that for an extra $180 or $360 rent, they got renovated units. In addition, by increasing the value of that property, the landlord was working to reduce the deficit. He pays higher property and income taxes. If the government froze taxes, froze spending, then this development encourages increased tax revenues.

In 1989, quoting Bob Rae in the Globe and Mail, he said, "What we want to try to do is eliminate the unproductive speculative element in the economy as much as we possibly can." If a landlord is victimizing his tenants—what I see is that people voluntarily rent apartments. If someone charges too high a rent, then that tenant has the

choice to move out. If too many people move out of the building, then either the landlord will go bankrupt, if he is an idiot, or he will lower rents to fill the building back up. I do not see that a tenant would live in a building where the rent would be raised—you know, if it was raised from $1,000 to $2,000, the tenant leaves, and what good does a landlord do raising his rent to that degree if no one will pay that rent? I mean, that is absurd. The building will sit there and go bankrupt.

So rent control—people make stupid decisions sometimes. Sometimes people rent units that are too expensive for them. I do not see where it is the proper role of government to protect people from stupid decisions, either landlords or tenants, and in the meantime to institute this type of legislation, which is totally unnecessary. The previous governments' was unnecessary. It contributed to their losing their election, because getting into real estate is very expensive, and these types of policies will prevent the NDP from staying in power very long.

There is a revolt rising in the country and in Ontario. It is called the Reform Party. And what do they advocate? They advocate cutting services, letting people be responsible for themselves. People make stupid decisions; they pay the consequences. When we make good decisions, when we succeed, we keep the profits from our success. When I make a decision to buy a building or to build a building, it is a result of my thinking process. If you control my property, you are controlling my thoughts and you are controlling me.

So the tenants who advocate tenants' rights, actually they are going to have to pay for these policies through higher taxes. So if the landlord does not have the right to his property, whether it is a building or whatever, then the tenant—or even when you are out of office you will not have the right to keep the majority of the money you make, because the taxes will be so high to pay for these type of policies that you put into power.

We see when the Tories started rent control—and I do not know who started baby bonuses, but I do not understand the purpose of subsidizing those who do not need it. You know, there are tenants—

The Chair: Did you want to reserve some time for questions and answers?

Mr Baker: Yes, I just have one more point.

It does not make much sense to subsidize and to control rents of people who spend the winter in Florida. It is like giving the baby bonus to people who do not need it. It is very expensive, and this is the type of policy that Canadians are starting to fight back about. If you follow what is going on in Blenheim and Sparta, there are some serious tax revolts going on, and the key to political leadership is sensing what is in the wind and reflecting what people want. You would be much better off lowering taxes. Then business would stay here. Ontario would attract business and there would be more money for social policies. I have nothing against—you can help anyone you want, but those of us who want to succeed, we should be left alone to succeed.

Mr Mahoney: Do you know, sir, the vacancy rate in this community? Someone said around 4%?

Mr Baker: I am intimately involved with the real estate market and I have—

Mr Mahoney: The point of my question is that I am trying to find out in that example that Mr Lessard was sending around wherever if the 81% rent increase, which I assume was somehow approved and justified through your lawyer, who represented them—

Mr Baker: Right.

Mr Mahoney: —so it went through. Did it cause economic eviction in that unit? Do you know any of those figures?

Mr Baker: Not that I know of; $365 a month, that is—

Mr Mahoney: Nobody left?

Mr Baker: Not that I know of, but I did not really look into it.

Mr Mahoney: I noticed you spent your entire time—and this is not in any way reacting sensitively—talking to the government members. I would suggest to you that you might as well have gone over and faced the wall and given your speech there, because I am afraid it is going to fall on deaf ears.

Mr Abel: Now he is talking to the cameras.

Mr Mahoney: While I understand your desire to be successful, you can rest assured that these ladies and gentlemen are just living up to their philosophical dogma in putting forth their attitudes on how they know best for the people of this province.

Mr Duignan: Like you did for five years.

Interjections.

Mr Mahoney: I think we are in some trouble. You can see they get a little sensitive and upset when someone starts to tell the truth. They cannot handle it, but in any event—

Mr Baker: But this is a chronic—

The Chair: Mr Tilson.

Mr Baker: Can I answer his—was it a question?

The Chair: It was a statement. Mr Tilson.

Mr Mahoney: Do you not agree?

The Chair: Mr Tilson.

Mr Tilson: We were in London yesterday, and one of the last speakers was a lawyer who made her living acting for tenants organizations that probably did not understand the system, did not understand the forms, did not understand the bureaucracy, and I am going to ask you the same question I asked her. As she was talking, I listed off the bureaucracy that was involved in these proceedings, and that consisted of the printing companies that printed off the vast number of forms that are involved, the rent police people who are now going to be introduced to seize landlords' records, the lawyers, the housing staff, the inspectors, the consultants, the judges, because there are certainly going to be court proceedings over this, the property managers, the lobbyists, the property standards staff, the work orders staff, the computer operators, the people who

are going to be running the rent registry system, and I am sure there are numbers that I am leaving out. My question to her was, as it is to you, how much can the taxpayers stand with respect to bureaucracy such as this?

Mr Baker: This bureaucracy is what our taxes go for and it is very costly and people rebel in different ways. They shop in the US. That is the clearest tax revolt. I mean, it will go down in history, like the American tax revolts, you know, dumping tea. This is the same thing.

You mentioned the rent control police, and Bill 121 seems to encourage some type of private building by saying it will not be covered by rent control for the first few years. Every landlord I have talked to would not touch private development in this province with a 10-foot pole. The consensus is to try and sell and to try to reduce your holdings, because to go up against these rent review police, you know, it is not something that we want to do. It does not encourage economic development.

1030

Mr Lessard: If I follow your argument, you are not in favour of any regulations of rents, for one thing.

Mr Baker: Correct.

Mr Lessard: You feel that if more properties were in the hands of private developers, the profits they make would contribute taxation revenue to the government.

Mr Baker: Correct.

Mr Lessard: That is your argument in favour of deregulation. Those rents come from the tenants, right? So the people who end up paying the tax bill are the tenants who may in some cases be the persons least likely able to pay those bills.

Mr Baker: They would live in the older stock of housing. Right now what happens is, because there is no new development—in the last five years there have been about 130 private units built in the Windsor area and about 1,300 non-profit units. What happens when there is new building in a healthy market, it is like new cars. People buy new cars. There are used cars. Lower-income people buy those used cars. That is transportation for the poor. Well, housing for the poor and the working poor is the oldest stock of housing that is vacated with the natural upgrade. As people improve their incomes they move to nicer accommodations. When non-profit housing—and I do not want to criticize your development program, but people of higher income will never live there. They want to live in luxury units. When they vacate the older units to move into newer units, those rents have to be lowered to fill up those buildings because they have vacancies. That is what low-income housing is. So, it is just unnecessary.

The Chair: Thank you. I am sorry, but time for this presentation has expired. Thank you for coming before the committee this morning.

FEDERATION OF WINDSOR-ESSEX COUNTY TENANTS ASSOCIATIONS

The Chair: The next presenter, Federation of Windsor-Essex County Tenants Associations.

We will be following the same procedure. I think you have been before us before, and if you want to have a question-and-answer session, you will have to withhold some time.

Mr Krall: Yes. My name is Joe Krall, and I am the chairperson of the Federation of Windsor-Essex County Tenants Associations. On behalf of our board of directors, I would like to thank this committee for the opportunity to appear before you today.

Our group is the lobby voice of approximately 20,000 Windsor and Essex county tenant households. We were founded in June of 1990 at a tenants rally protesting the RRRA.

Throughout the past nine months our federation has heard many varied comments concerning Bill 4, the green paper and now Bill 121. This presentation can be considered a cross-sampling of those comments. To begin, we are pleased that Bill 121 contains the following welcome changes:

No more financial loss allowances, which were simply a guarantee of profitability at the direct, hurtful expense of tenants. These allowances led to flipping, inflated property values and rent levels and the erosion of affordable rental stock.

Increased fines and offences, section 124, and in particular clause 124(1)(j) which makes it an offence to interfere, hinder or obstruct a tenant from organizing or securing his or her rights.

Interest is now payable upon rebates of illegal rent. Under the RRRA, if a rebate of illegal rent was ordered, there were no provisions to order interest payable on these moneys which were illegally obtained from unsuspecting tenants. Subsection 30(4) provides that interest will now be paid. This should provide a greater deterrent, particularly when coupled with increased fines.

Applications to reduce rent, as provided in sections 23 through 26, are another welcome addition. However, we will caution that section 24 requires a tenant to provide information which will be difficult or impossible to obtain. We are concerned that the vague nature of sections 25 and 26 imply that rulings will primarily be at the discretion of rent officers. This can lead to inconsistencies and many other problems. We urge the ministry to mandate very high standards for these rent officers, particularly since it has abolished appeal hearings.

We feel that Bill 121 is a modest improvement over the RRRA, even in its present form. However, we feel that it could be markedly superior and we will use the balance of our presentation to share some of our fears and offer potential solutions.

Guideline increases: We believe that the two-guideline system is unfair and confusing. We suggest there is no real evidence to substantiate the cost differences claimed by small landlords. We will submit that this provision has added undue complexity to this bill. If there must be a two-guideline system, there should be a provision to isolate owners who own several buildings of under seven units and otherwise would be rewarded more than other landlords with similar unit numbers but fewer buildings.

Notice of rent increase will no longer require a landlord to disclose the maximum legal rents or the percentage increase that he is taking. This information is vital to tenants

and the lack of same will only add confusion and could encourage misrepresentation of legal rent and available increases.

The rent registry is a shambles and is not likely to improve sufficiently under Bill 121. All private-sector rental units should be registered, not just buildings with four or more units. We hope the ministry will reconsider.

Registering every rental unit is not the complete solution. To date, the registry has been a mechanism to legalize illegal rents and this will surely continue under Bill 121.

The six-month period available for challenges to the registered information is completely inadequate and should be replaced by a period of not less than two years.

Further, landlords should be required to provide additional information which would allow for ministry spot-checks to validate supplied information.

Administrative review is virtually as complex as under the RRRA. Reasons for an order will not be released unless specifically requested. We simply cannot understand the reasoning for this and are certain that confusion will increase.

No appeals will be allowed under Bill 121. We feel that this is an unfair prejudice towards tenants as most will not understand the system and will likely do little or nothing until an order has been released. Unfortunately there are no options left under Bill 121 except the courts. This is certainly not a practical measure for the average tenant. We feel a one-tiered system should have an automatic hearing with a provision to allow both sides to consent to administrative review.

Maintenance standards will likely not improve dramatically under Bill 121. There are no provisions to respond to any lack of local enforcement and we expect lengthy delays throughout this process. Devoted and competent rent, property standards and health officers, in adequate abundance, are a strict pre-requisite for this system.

The rent freeze provided for non-compliance will not prove to be much of a deterrent as it only affects future rent increases. This penalty would be considerably more effective if it rolled back the last rent increase to the date of infraction.

Subsection 37(3) allows a landlord to request a review of a work order if he or she is not satisfied with its terms. This should be expanded to include provisions for tenant input. We expect this would be very beneficial to the chief rent officer reviewing this work order.

1040

Capital expenditure transition provisions in subsection 16(1) are a slap in the face to tenants who had promises made to them through Bill 4. There will be many upset tenants as these orders are released and these people realize Bill 4 was only a temporary salvation. These provisions will create a huge backlog of applications, which is certainly not conducive to a smooth transition, especially considering the backlog of RRRA matters which must still be dealt with.

Section 17 will presumably allow a landlord to make a capital expenditure application for unnecessary work solely due to a tenant's consent. We fear this will lead to coercion and exploitation of tenants, particularly since there are no provisions to protect a tenant who changes his or her mind following consent. Likewise, tenants who consent to assume the costs of a new or additional service under section 18 are similarly disadvantaged if they change their minds.

Two per cent of the annual guideline has been targeted for capital expenditures, yet there are no provisions to stop a landlord from using this money for any other purposes. Neither the 2% of the guideline or potential pass-throughs will ensure rental stock is maintained or necessary work will be done.

This federation has never advocated cost pass-throughs and will not begin now. We firmly believe that if we must work under this type of system, there should be more protections afforded to tenants, including:

The removal of capital costs from existing rent levels once the expense is paid for.

Full accounting of capital expenditures versus moneys allocated and collected for this purpose by landlords making an application. This accounting should be for a period of not less than five years.

A cost pass-through system cannot be fair until all costs that are no longer borne are removed from existing rent levels. As these revenues continually compound, there must also be provisions to remedy this compounding effect.

Subsection (20)(5) contains additional landlord windfall potential and grants interest on the capital expenditure even if borrowing is not required. It further provides that a value be allocated for a landlord's own labour, which simply cries for abuse.

A challenge faces both this committee and our government. That challenge is to make substantive and meaningful changes to Bill 121. Let us not settle for a system that is only moderately superior to its predecessor legislation, as we could reasonably achieve much higher.

One of the most disturbing things we have seen locally is that many of the tenants we have spoken to seem to feel their appearance before this committee would have been a waste of time and we assume that will partially account for the meagre tenant representation here today. We hope these fears are unfounded and there will be substantial changes to Bill 121 prior to proclamation.

We thank you again for the opportunity to appear before you today.

Ms Harrington: Thank you very much, Mr Krall, for coming. You have given a very thoughtful presentation and very thorough and I just do not have the time to comment on all of it, but I would like to try to let you know that many of the things you have brought up we have already heard about and several of them are definitely being considered.

First of all, you brought up the question of the reason for the two guidelines, the need for a rent registry that does operate well. We realize that has to be effective. The appeal procedures: We have had concerns about them voiced to us, and of course the maintenance enforcement. That is one of the main thrusts of this bill, and that is something that we have to ensure is workable, and you are talking about the interaction with municipalities on that. You also deal with the consent without coercion, which is something

that we have to look very carefully at to make sure that, if there is consent, there is no coercion. Also, one of my concerns here you had noted: the lack of local enforcement of standards.

The cost-no-longer-borne provision—I wanted to ask you: There was a proposal put forward by several people, I think, that people's rental charges be separated into a charge for accommodation, the charge for taxes and the charge for temporary charges, that is, the cost-no-longer-borne-type thing. Would you favour that?

Mr Krall: I would if we must be in a system of cost pass-throughs, but I am not certain that we have to. If we are in that kind of a system then I think it is only fair if the rent is actually subdivided into many different areas, but that again is a bureaucratic nightmare, I am sure, and very costly to administer. If we have to be with pass-throughs, then yes, I would advocate that.

Ms Harrington: Would you favour a reserve fund then?

Mr Krall: I have not seen enough research that I think I could really knowledgeably talk about a reserve fund. I really like the concept and I think it is probably something that could be workable.

Ms Harrington: For new buildings it is a lot easier than old.

Mr Brown: The one issue I wanted to raise with you is guideline increases. What has been pointed out to be fair by a number of tenants groups and a number of landlord groups, the differentiation in the guideline as six units or less or larger—the one thing you seem to note is that not necessarily small landlords own these buildings; it could be large landlords. We had a person present to us yesterday in London who is a partner with four other people in a building that had 16 units. Essentially, this small investor owned a triplex. If you look at it from the tenants' point of view, why should I pay more, in terms of guideline increases, if I happen to live in six units or less than I do in the larger? We do not understand that particular provision. What would you recommend?

Mr Krall: We really feel one guideline would be sufficient. If you have a smaller number of units we feel that, while you do not have certain cost advantages, there are also certain expenses you likely do not have versus a large building. Usually these small buildings do not have elevators or full-time staff. There are many things the small landlord can actually save versus the large one. I really think that if exhaustive studies were done, it all kind of works out in the wash and that one guideline would be practical.

Mr Tilson: I would like you to comment further on the guideline issue, the rent control index, section 20, because there has certainly been considerable criticism of that. Why are we going on large and small buildings when the major problem of the deterioration of buildings in this province is that 70% to 75% of the buildings are 20 years old or older? Those are the buildings that need the tremendous amount of capital improvements, not the issue of small and large buildings.

The second criticism which has surfaced to some degree is that the calculations given in the ministry that talked to us somewhat about this were based on a Royal LePage study, although the ironic part is that the operating costs that were calculated were based on the needs of new buildings and not old buildings, of which there are somewhere between 70% and 80% of this province, as I have indicated. The very statistics the ministry is using are out of whack. I would like you to comment because you did refer somewhat to section 20 in your remarks.

Mr Krall: I am not familiar with the Royal LePage study you are referring to but, on this issue, I do not think small buildings or large buildings, old buildings or new buildings should be under a different guideline system. If money is earmarked for maintenance in the guideline, for repairs were used for that purpose, and landlords were made to account in that regard, I do not think we would have the same problems.

Mr Tilson: The ironic part, sir, is that the ministry used its statistics on new buildings, not old buildings.

1050

WINDSOR AND DISTRICT LABOUR COUNCIL

The Chair: The next witnesses before the committee are from the Windsor and District Labour Council. Good morning. We will be following the same procedure: 15 minutes for the total presentation, and you can withhold some time for questions and answers if you wish.

Mr Parent: I am Gary Parent. I want to thank you, Mr Chairman. First of all, you do not have to worry about the time for questions because our brief this morning will be very brief. As you can well appreciate, and as we outline in our brief, the labour council per se does not get into the renting, nor does it get into the landlords of buildings or properties that are covered under the legislation that is before us here this morning. I think our brief really is an overview of where we see this legislation. I am going to tell you very bluntly and upfront that any technical questions on the legislation we are not exactly that familiar with, but we do know the concerns of our members who are talking to us daily about the problems they are experiencing.

In saying that, we thank the committee for the opportunity to talk to you here this morning on the proposed new rent control legislation. We do not believe we have to highlight to you the inadequacies of the past rent control legislation that in our opinion failed the tenants and the landlords miserably. We applaud this government in attempting to put in place a piece of fair legislation that in our opinion will benefit both parties.

Take, for example, the landlord. If he or she faces water, hydro, municipal taxes or other major repair costs, that individual may apply to rent control for an increase greater than the guideline up to, as we understand the proposal to be, a 3% over guideline maximum. We feel this should make any landlord happy unless that landlord is strictly out to gouge his tenants.

We feel the proposed new legislation provides the tenants, finally, the right to apply for rent rebates and rent reductions if they are being charged illegal rents and if their landlords owe them money. As well, tenants can

apply to have their rent reduced when landlords have withdrawn services or when maintenance is poor.

The proposed new legislation will enable newly constructed buildings to be exempt from rent control for a period of five years, as we understand it which, contrary to the outcry from developers, should not discourage them from wanting to invest in new buildings. In saying this, we also believe there have to be some safeguards put in so that this is not abused. The labour community in Windsor and surrounding areas does feel that this government listened primarily to the renters from this province, who a great majority were ripped off, in our opinion, by landlords who only wanted their bankrolls to increase and did not care about what condition their buildings were left in or what living conditions their tenants had to live in.

We know there are many good landlords in this community and other communities across this province, and we would like to tell these people that this legislation would not hurt them if they would at least give the proposed legislation a chance. As I said earlier, as a labour council,we are not experts in the renting or building of places that this legislation covers, but we do know that the members we represent have in the past been gravely affected by high rent increases, primarily our retirees who are on fixed incomes and, I might add, our unemployed people. As we stated earlier, we would only hope that we allow the legislation to become law and that both tenants and landlords work together to make it work for all concerned. This is respectfully submitted by myself and Nick LaPosta, who is the secretary-treasurer of the Windsor and District Labour Council. Could I just make another comment, Mr Chairman?

The Chair: Certainly.

Mr Parent: I listened to the one presentation before the last. One comment he made was to the effect that, "If people don't like the rent, they can just move out." I just say to that individual and other individuals of the same mind that it would be nice if it could be practical, but we all know some of the renting problems we have experienced in this community. If we were at a zero rent vacancy, where would that person go to? What kind of housing would that person go to? I say to that person that I understand the concern when talking about this new piece of legislation, but also, as we stated in our brief, we have to work out any inadequacies that are there. I think some of the points of the speaker immediately previous to myself have pointed out some concerns this committee should be looking at before it puts the representation and make the final draft of the legislation before the Legislature. Thank you.

The Chair: Thank you. Nick, did you want to add anything?

Mr LaPosta: In listening to the different presenters who came before this committee today, I do not know if this committee is—nobody has talked to me about a minimum standard. I have not seen any minimum standard guidelines in any of the legislation, and I have to be honest: I am not a research person where I have gone through every piece of legislation ever written on rent control or housing in our province, but I have heard some good arguments on the side of the landlords and I have heard some good counterarguments on the side of the tenants. From where I sit in the argument, it seems to me that if both sides were just to sit down together, forget the government-elect, forget the governments elected from the past and come up with some legislation they could maybe jointly propose to a body such as this, possibly we would have less catcalls and less screaming back and forth and a little more productivity on both sides. That is the only thing that I would like to mention.

Interjection.

Mr LaPosta: We see that on the television all the time. It does not work.

Mr Tilson: On the first speaker's comment with respect to rent availability in the Windsor area, I would just like you to comment on a news story from the Windsor Star from the middle of July which talked about Windsor's official vacancy rate hovering around 4%, nearly 80% higher than last year's, and that renters are moving out of substandard housing when and where they can. It talked about the average rent as being $503 for a two-bedroom unit. This is as of last of October; I do not know what that would be now. You cannot beat that anywhere in Ontario. I would like you to comment on those figures.

Mr Parent: I hope you will appreciate what has been happening in our community. Although $503 may not sound like a lot of money to someone renting in the city of Toronto or in other communities across this province, an unemployed person stuck on a fixed income of unemployment insurance just cannot afford that $503. There is a real concern of affordable housing we are pushing for as a labour movement and as a city, I must add, of trying to get more affordable housing as well into this community, in the sense of co-op and non-profit housing. We will continue along that vein as well.

Mr Tilson: This news clipping continues by talking about the proliferation of non-profit housing units, which are part of the problem in creating vacancies in the private sector. Can you comment on that?

Mr Parent: Yes. I do not totally agree with that. I do not believe we all believe everything that is written in the paper to be gospel. If we did we would all be in a heap of trouble, but at the same time I believe that the realities of what is happening and facing us as a community have to be taken into consideration when such comments are made public.

Mr Tilson: This is the Canada Mortgage and Housing Corp, it is not?

Mr Parent: I understand what you are—

The Chair: Thank you. Mr Dadamo.

Mr Dadamo: Thank you, Mr Parent and Mr LaPosta, for appearing before this committee this morning. I want to make a couple of comments. First of all, I want to highlight the fact that the rent review guideline for the year 1992 is 6%. When this new rent control act is to be passed, the most a landlord will be able to obtain above the guideline is another 3%. As you know, the city has been devastated

in the last year and a half, two years, by the economy and by the recession. I would like to know from you and make public to the committee this morning, on behalf of the labour council, how drastically and dramatically the rents have gone up in this area. We would like to say that the 15%, 20%, and 30% days will be over. Maybe you know of some people who have been put in that kind of predicament.

Mr Parent: Probably Nick would be a better person to talk to on that because he has a direct link with over 2,000 of his members who have been laid off through this economic climate. I just want to make a comment before I turn it over to Nick. There are people right now whom we have coming in to the labour council office and other local unions across this city who are out of housing, and I think our housing needs in this community are much greater, but in a different way than is covered under this rent control legislation. I am talking now about going back to the affordable and the co-op housing structures we have to be looking at, primarily because of what we are facing in this community and other communities. But maybe Nick can answer the direct question.

Mr LaPosta: To just answer the question briefly, my particular local has suffered through plant closures at a devastating rate. I know there are some members on this particular board who can relate to that. There are a lot of single parents, male or female, who use rental housing as their main source of housing while they are working. But one day they are working and the next day they are not. Their source of income is interrupted so regularly. Even though you hear of supplementary unemployment benefit plans and unemployment insurance programs and government initiatives to assist one's standard of living, once his own personal source of income is gone, there is always a time lapse; there is always a gap.

1100

The biggest argument that was going on in our immediate area while all this was happening—unfortunately, landlords were painted as the cruel person who came down and said: "I'm not interested in what is happening to you personally. All I know is that you're behind in the rent," or "You're falling this far behind and I'm losing money." The unfortunate part there is that those people ended up either throwing their keys at the landlord and leaving or actually being thrown out, because if they were still making their payments and still had some source of income, that particular landlord used the legislation of the day to come down on them, saying, "Your rent is now going up 20% or 25%."

When you look at the retirees, the people who live alone, who are on fixed incomes, who could not absorb that type of cost, when you look at the plant closures that broke up their source of income so that they could not maintain, and when you look at the general population that has left the area because of the devastation, I think that adds a lot of credence to the figures Mr Tilson was throwing out earlier and also adds some credence to what the government attempted to do.

Mr Mahoney: I wish Alvin Curling were here, the minister who brought in Bill 51, because it was under his leadership that exactly the process you talked about occurred. In fact, the initial printing of the bill was signed by people like Mr Dan McIntyre from Ottawa, and many—

Interjection.

Mr Mahoney: Oh yes, it was. He has a copy of it, excuse me, and I have seen it. There was an attempt to sit down with the landlords and the tenants to come up with it.

My question relates more to some of the comments here. You suggest that landlords should accept a 3%-over-guideline maximum in dealing with things like water, hydro, municipal taxes or major repair costs. Let's deal with water, hydro and municipal taxes. These are items where the rates are set by a third party, by a government. No control by the tenants, no control by the landlord. You say they should be happy with the 3% unless they are trying to gouge the tenants. What do they do if in fact it is a double-digit increase in taxes, in hydro? We are looking at 44% as the latest projection for hydro increases. Should the landlord be required to subsidize the tenant through costs that are being passed on by other forms of government, or should the tenant share in those costs?

Mr Parent: I am not averse to the tenant sharing in any abnormally high cost that is passed on to the landlord. What we are objecting to very strenuously is to inflate that same landlord's pocketbook to the double-digit figures as well.

Mr Mahoney: I am talking about the actual costs that come from public policy decisions of the PUC or municipal governments or whatever. I am not talking about him gouging for profiteering. We have seen double-digit tax increases, double-digit hydro increases, double-digit water increases. Is the landlord just supposed to say, "Okay, I'll take 3%, guys, and I'll eat the rest of it"? Is that fair?

Mr Parent: Again, if you take everything in credence, you have to look at exactly what the bottom line of that particular landlord is. No, I do not expect him to absorb the total cost, but the tenants at the same time do not have to take it as being part of their responsibility to inflate his pocketbook at the same time.

Mr Mahoney: I am not talking about inflating his pocketbook. I am talking about increases that are passed on—

Mr Parent: We do not know unless you are talking specifics, my friend.

Mr Mahoney: I am talking about increases that are passed on through public policy decisions that neither the tenant nor the landlord can control. It is simply unfair to suggest they should be happy with 3%.

Finally, I found your presentation an attempt to be moderate and to be conciliatory until we come to the statement at the bottom of page 3 and the top of page 4, where you say that you believe this government listened primarily to the renters "who a great majority were ripped off, in our opinion, by landlords who only wanted their bankrolls to increase and didn't care about...their buildings." Are you suggesting that a great majority of the tenants in this province are being ripped off by their landlords?

Mr Parent: Absolutely.

Mr Mahoney: You really believe that?

Mr Parent: Yes, I do. Very much so.

Mr Mahoney: Do you have any statistics to back that up?

The Chair: I wish I could let this go on for the rest of the morning. I am going to give Mr Parent about 30 seconds to answer the question. I have allowed every presenter this morning to go over between one and three minutes, and now we are getting to the maximum. So I am sorry, I am going to have to cut it off, but I will allow Mr Parent to answer the question.

Mr Parent: I just want to say to Mr Mahoney and to the committee that if it were not for the landlords who are not, in our opinion, reputable, if it were not for the landlords who are treating tenants very unfairly, there would be no need in this province for rent control. But unfortunately, my friend, that is not what is happening and unfortunately there are people in this province who are hurting as a result of not having fair landlords.

The Chair: I would like to thank the Windsor and District Labour Council for coming before us this morning.

SCARSDALE TENANTS' ASSOCIATION

The Chair: The next presenter for this morning is Donald Fraysure. Mr Fraysure, I think you have been before this committee before, so you are familiar with our procedure. We have allotted for the presenters 15 minutes, of which you can withhold some time for questions and answers.

Mr Fraysure: Thank you for hearing my presentation. I am Donald Fraysure, chairperson of the Scarsdale Tenants' Association. We tenants live in an apartment complex of two three-storey apartments with a total of 47 rental units on Tecumseh Road East in Windsor. We gave a presentation to you in January dealing with Bill 4, and we welcome this opportunity to appear for Bill 121.

To give a short update of what has happened to our complex since January, we still have had five different owners in what is now 45 months, with a continuing history of minimum repairs and maintenance and no capital expenditures. We still have absentee landlords and now we even have an absentee management company. Our present landlords do seem to be very unhappy owners. They backed into the situation as owners of a block of six Windsor apartments, of which the Scarsdale is one. The landlords were primarily mortgagors and not real estate investors in this transaction, or so we were told by their financial adviser, Mr Lal Khanna. They had to take over the properties on July 27, 1990, to protect their mortgages to First Western Ontario Properties. Only weeks after the mortgages were issued, FWOP folded. Suresh Malhotra, in trust, seems to be the principal.

In February, our executive met with Mr Khanna and tried to work out something regarding the continuing neglect of repairs and maintenance. He asked for a five- or six-month respite to plan correctly and include capital expenditures. We have tried to work with all our landlords, so we agreed. Now this is it. It is past the six-month period and not a whisper from anyone. We are now in the process of yet another inventory of tenants' complaints leading up to building inspections and, we hope, binding work orders this time.

Bill 121, section 12, needs more explicit, tighter controls spelled out for the 2% capital expenditure fund, and also tight controls specifically dealing with less expensive repairs and maintenance, which not all landlords, but some, are now almost totally neglecting.

Some of our tenants are still using their own labour and/or money to do their own necessary repairs. We feel that Bill 121, again under section 12, should allow them to initiate the necessary work and be reimbursed from the 2% allowance on the grounds of need, but only when this is approved by a rent officer. The costs could then be passed on to the landlords in the form of penalties for not meeting their obligations. I can already hear the complaints of this overloading the system still more, but something has to be done to halt the further deterioration of the rental housing stock in Ontario, so each and any approach we use will help alleviate this.

Under Bill 121, clause 15(3)(a), dealing with neglect, we would suggest, drawing on our own experiences, that any pass-throughs for capital expenditures must be proven. This would have to be done by the landlord submitting complete figures for all repairs, maintenance and capital expenditures on the property for a period of up to the last seven years.

We would also ask for proof of maintenance figures claimed in operating costs. For example, on a weight of 100, a figure of 16.9 or $13,100 was claimed in 1989 by our landlord. A claim such as this should be accompanied by a complete list of proven figures so that tenants would be privy to this information on a continuing basis.

1110

Now we come to a glaring loophole from the Residential Rent Regulation Act, 1986, not taken care of by Bill 121. Under Bill 4 and Bill 121, it is no longer possible for a landlord to claim financial loss, hardship allowance or economic loss for phase-ins for rent increases. But nothing has been done about the financial loss phase-ins that are in the rent and will remain compounded in the existing rents unless this is corrected. This should be taken care of under "Application to Reduce Rent" in Bill 121, sections 23 to 28. This item cannot be classed as retroactive, as it was claimed in Bill 4 for other items.

Here is some of the history of our experiences with phase-ins under financial loss under rent review application number L-0574-WN.

Under RRRA 1986, sections 75, 79 and 92, our rents were raised for a claimed financial loss of $40,350 and a relief from hardship of $5,500 as allowed by two phase-ins: 5% June 1, 1989, and 5% June 1, 1990, under schedule B6, "Phase-in Calculations" and B7, "Relief from Hardship" for the specific years named and with total amounts spelled out in detail. Here are some of the wordings in the orders:

"The closing balance will be used to calculate the phase-in amount for the subsequent year. Calculations similar to the initial year phase-in calculations will be completed for each subsequent year until the financial loss has been eliminated."

"Relief from hardship will be phased in after financial loss has been eliminated."

Under this setup, even with our landlord no longer able to claim financial loss, he will be able to receive his claimed financial loss from 1989 and 1990. Hence, at that time, this amount compounded, still remaining on our rents, becomes an additional windfall profit to the landlord. That should be corrected. We suggest that the correct maximum rents be figured by going back to the rent paid before the first phase-in was applied in 1989 and adding only the legal guidelines for the years involved to that figure to arrive at the maximum present legal rent. Again, as it is no longer legal to claim financial losses for the landlords, why would it be legal to retain the financial loss phase-ins compounded in our rent when they are no longer used or issued for that purpose?

We would suggest that Bill 121, section 96 be expanded so that files in the rent registry be further upgraded annually for each rental unit, so that the complete financial history, changes in value and/or ownership, operating costs, expenditures and any other necessary items would be collected from landlords and tenants as necessary to have a complete, up-to-date picture in one file. This would allow any questions pertaining to the unit to be more easily answered. This would also give the tenant access to information he has not always been privy to before. It has been suggested numerous times, by all parties involved in these various hearings and in the Legislature, that a definite coordinated program be put in operation to revise and simplify all the forms and complex procedures now in rent control.

Even so-called experts are now at a loss, and the poor tenant has to seek assistance for even the most simple action. We have not heard or seen that these changes in the process are being done. Will they come in with Bill 121?

I know this is not dealing with Bill 121, but Mr Tilson brought up an item that I brought up before under the low-rise rehabilitation program. I would suggest it be amended and revised so that the present 25-year time eligibility be lowered to 20 years because most of the apartments that are deteriorating now start deteriorating at 20 years, so there is a use for that. This would be a backing for the small landlord and help revitalize the existing housing, and it sure would be less expensive than financing new housing. Thank you for your time and patience.

Mr Brown: It seems to me you brought some pictures of your building the last time.

Mr Fraysure: I have them if you want to see them, they are over here.

Mr Brown: Are you telling us there was not much of an improvement?

Mr Fraysure: No, there has not been any improvement, there has been deterioration.

Mr Brown: Have tenants been forced to move out of the building at all because of the conditions occurring in the last few months?

Mr Fraysure: I have not heard of anybody. It has not definitely gotten to that point but I hate for this winter to come because ceilings and walls are beginning to crack to the point they are going to be falling and we have noticeable seepage in the walls. That is the reason next week I hope to start the process. Even though it winds up in district court, we are going to have to do something.

Mr Brown: The municipal building inspectors have been in, I take it?

Mr Fraysure: No, this is what I am making up now. We do believe in trying to work with the landlords. We do not believe we should be at each other's throats, so we have tried it, as I have told you. They asked for a five- or six-month respite and now everything is absentee. They have even formed their own management company which is in Mississauga. We have no local office or anything.

Mr Turnbull: It sounds like you live in a pretty dreadful building from what you described in February and now.

Mr Fraysure: As I pointed out before, because of the tenants themselves taking care of the glaring mistakes—

Mr Turnbull: Right. Tell me something, what is the average rent level in your building?

Mr Fraysure: I am paying now $570 for a two-bedroom place.

Mr Turnbull: Do you believe a landlord is entitled to a profit?

Mr Fraysure: Reasonable.

Mr Turnbull: What would a reasonable profit be?

Mr Fraysure: I would say he is making a reasonable—

Mr Turnbull: No, I am not asking you whether he is or not, I am saying what would a reasonable profit be, related to other investments?

Mr Fraysure: I would say he should be aware of the amount of profit he is going to make—

Mr Turnbull: No, no, excuse me, I am asking—

Mr Fraysure: Listen me out, please.

The Chair: We do not have time for long explanations, I am sorry. I think we are just going to go over to Ms Harrington.

Ms Harrington: Thank you very much, Mr Fraysure. You have really given us a picture of what it is like here, at least in your building. I know you have done a lot of work with this paper and through the years. You have become an expert. I would like to take back several things you have mentioned; the fact that the financial loss phase-ins are then compounded in the rents and do not get out of the rents, and your concern about the rent registry being able to have a lot of information tenants need. It is, of course, difficult to make sure we have everything. We are talking computers and making sure things are up to date. We need a system that works and that is not too complex. I think you understand that.

The other point you made—although everything was very valid—is that landlords and tenants have to understand each other. And you are saying that, "Yes, landlords should make a fair profit." And we are saying, yes, in Ontario. We have to have a rental market that is viable. We know that but we cannot have this kind of situation you are facing and we have to stop that. So I appreciate your trying

to work together with your landlord, if only he could be found, I guess that is what you would say.

1120

LEGAL ASSISTANCE OF WINDSOR

The Chair: The next presenter is Legal Assistance of Windsor. We will be following the same procedure—15 minutes and you can withhold some time for questions and answers if you wish.

Ms McDermott: My name is Carol McDermott. I am a staff lawyer at Legal Assistance of Windsor. Legal Assistance is a poverty law clinic. It specializes in immigration, social assistance and landlord and tenant matters. In order to qualify for our services our clients are usually eligible for some form of social assistance or are members of the working poor. Since they are always in some kind of serious financial constraints, they are the people for whom fair rental control is essential. Therefore, we certainly welcome the opportunity to address this committee.

There are a lot of positive aspects to the proposed legislation and certainly some aspects that could be improved. I will try to address my comments to issues that have not, I think, been raised previously and I will go chronologically through the act.

It is certainly helpful that the scope of the act is consistent with that of the Landlord and Tenant Act. Previously there were some differences between what premises were covered under the RRRA and the Landlord and Tenant Act and that certainly added to the confusion that was already present with that kind of technical legislation.

Many laypeople are aware of many of their rights under the Landlord and Tenant Act, but they are not aware of many of their rights under the RRRA and its predecessor. I think part of the reason for that, aside from the obviously technical nature of the RRRA, is that the Landlord and Tenant Act has in its regulations a summary written in language that is accessible to the layperson and it is required that it be posted on the premises. I think a very simple way to assist people in becoming aware of their rights under the proposed legislation would be to have a similar summary provided in the regulations and require that it be posted on the premises, along with the summary from the Landlord and Tenant Act. What rights are granted are only as useful as people are aware of them and providing people with rights that are not understandable or accessible to them is useless.

Our clients need housing they can afford and that they can feel secure in for a period of time. Because they are on such strict financial limitations, not only is paying the rent a major concern for them, but any disruption in that seriously puts them into jeopardy. Some people may choose to move because they are tired of their accommodations or they wish something better. Most of our clients move only when they are in desperate straits. If the rent has increased to the point where they can no longer afford it, not only is finding a new place that is affordable a problem, but just paying for a move is a problem, paying for the hookup of the new utilities and change in telephone service. Everything becomes much more difficult. So they need to know that once they choose a place they can afford, they need to know they are going to be able to afford that for some lengthy period of time. Therefore, we think the cap on the increase over the guideline is really helpful.

Certainly we appreciate the limitation and the kinds of extraordinary increases that will support an application for this increase. Hopefully cutting out increases for financing and losses associated with sales and indeed resales sequentially of property will help curtail some of the profit-seeking speculation that has penalized our clients most severely.

It is understandable that a landlord may be entitled to an increase above the guideline when there has really been an extraordinary increase in operating costs. On the same side, though, of course, a tenant should be entitled to a decrease when that happens. But again, a tenant will only be able to exercise that right if he has access to that kind of information. We suggest the landlord be required to post a summary of operating expenses annually, perhaps at the same time that the guideline is published, which could be posted along with the summaries of the two acts.

The 2% annual guideline amount to be allocated towards capital costs needs somehow to be recorded and justified and proved that that has been allocated in that direction. Unfortunately, I think an unscrupulous landlord might see this as an incentive to pocket an extra 2% profit for a few years, which allows the building to deteriorate to the extent where its need for capital improvements would justify an application for an increase above the guideline. Therefore, we suggest it is imperative that that 2% be applied every year or carried forward in an account that can only be used and would need to be spent towards capital improvements before an extra 3% can be added. Unfortunately, with the carry forward, it could mean an unscrupulous landlord who is used to keeping records could plan the repairs so he could justify an increase every two years. If he applies for 6% and gets 6% every two years it would mean the tenants' rents will be going up the guideline plus 3% every two years.

Landlords, of course, will say they have to undertake these repairs and improvements at some time, so they need to be allowed to pass their expenses through to their tenants. We suggest that the capital gain on his property is one of the landlord's return on investment. Our tenants live in rental accommodations because they cannot afford to own their property. They are paying rent and not building up any kind of equity. Therefore, a landlord who is building equity in the property by the use of our tenants' rents should feel somewhat satisfied in the creation of a capital gain in the long term and not necessarily feel that every expense needs to be passed on to the tenant.

We wholeheartedly applaud the availability of a tenant to apply for a reduction in a rental amount based on the stated criteria. It is interesting to note the wording in section 25, however. It allows the application to be made not on the basis of the existence of inadequate standard of maintenance or repair but on "whether the standard of maintenance or repair...is inadequate." I am not sure what this means. It is arguable that it would put the burden of proof on the landlord to prove that the standard is adequate, or it could leave it up to the rent officer, on a fact-

finding basis, to make a decision. There are certainly advantages and disadvantages to either way of proceeding, but I think that section needs to be spelled out more clearly.

Subsection 28(3) allows the rent officer to make an order requiring the landlord to repay the tenant a sum of money. For those tenants who remain in their units, deducting that sum sequentially from their rent can be a very helpful and adequate way of enforcing that order. However, for those tenants who may have made the application after they have moved out, or for whom their success in their application has caused the relationship with their landlord to deteriorate to the extent where they subsequently move out, they need some other practical means of enforcing that order. One way to do it would be to add in the section in the old RRRA—I think it was section 36—that provided that an order of the board could be filed with a court and thereafter would be enforceable as if it were an order of that court. That way the tenant who has not been paid what the board has ordered his landlord owes him could file the order with the small claims court and proceed to garnish the other tenants of that landlord.

Section 33 allows a party to apply to a chief rent officer for an order determining a variety of issues such as the applicability of the act, what units are included and the maximum rent. All those seem to be fairly factual issues which would certainly seem to be within the purview of an administrative review. However, it is surprising that within that list of issues there is one that can allow the rent officer to make a determination about whether an agreement between a landlord and a tenant for improvements has been made on the basis of coercion or freely. I think it is surprising that such a decision would be made by a non-judicial officer and without, it would seem, any requirement for a hearing, because it certainly would require a determination of credibility between the parties.

I suspect that the Statutory Powers Procedure Act would apply and would require a hearing. However, section 59 specifies that a hearing must be requested by one of the parties before it will be held. I think section 33 should be clarified to require that a hearing be held in every case where the credibility of the parties is at stake and that the decision should be subject to judicial review.

Our clients frequently experience difficulty in enforcing the right to adequately maintain the rental premises. This seems to be a perennial problem. We are certainly encouraged by the attempt of this act to address that issue.

1130

The Chair: Did you want to reserve some time for questions and answers? It is your option, I just wanted you to know.

Ms McDermott: Well, if anybody has a question that they would like to address. If I could just briefly suggest, that whole section needs to be tightened up an awful lot. It is not at all clear what the roles of the parties are. There seems to be an inspector available at some point. The standards committee, previously available, was not at all well known. The conflict between jurisdictions which have their own standards and those that do not, meant that it was much less useful than it could have been. I think the idea behind this section is quite laudable but needs greatly to be tightened up.

In terms of procedure, the ways of giving notice are set out quite clearly. I think it also needs to have some way of proof of giving notice. Many of these notices are given in very informal manners, and it is not until some time after the effect that it becomes clear that it is controversial. It is long after a tenant has first rented a unit that the landlord says, "I gave you a piece of paper telling you that there was an application pending when you first rented it." If, at the time of giving that notice, the tenant's signature is requested, or when other methods of service such as posting or mailing are undertaken, specified forms of affidavits of service would assist in preventing some of those disputes. If I can just address one—

The Chair: It is your option. You can use all the time for your statement or you can reserve time. It is not a question of me insisting on what you do.

Ms McDermott: I will just address one further point. Section 31 prohibits illegal charges. It specifies considerations of fee, premium, commission bonus, penalty or key deposit. I think this is a very useful section. It corresponds to the previous section 100 in the RRRA. I would like to have that tightened up slightly to allow reasonable liquidated damages for NSF cheques returned. Most people would agree that if a cheque is dishonoured, the landlord should not have to pay the bank charges and the tenant should be liable for them. There is case law to provide that is the case.

The problem is that case law then seems to open the door. It says it is okay to charge $25 because liquidated damages is not really a penalty. That, I fear, does open the door for landlords to say, "Well, I am also going to charge you my carrying fees and my secretarial fees for sending you the notice, and I am going to charge you my printing fees for the notice." It opens the door for the landlord to try and fit other things in as liquidated amounts and say that they are that rather than a penalty. If it specified what specifically is allowed, it will close that door and not allow other arguments in.

There are other circumstances in which tenants are being charged legal fees of up to $300 when their rent is late. I would like that section to be tightened up to say that legal fees are covered by the prohibitive reference to fee, unless legal fees are specifically ordered by a court of law.

The Chair: Thank you for your presentation.

M. SCHAFER REAL ESTATE LTD

The Chair: The next presenter, M. Schafer Real Estate Ltd.

Mr Schafer: Mr Chairman, ladies and gentlemen, my name is Matthew Schafer. We are property managers in Sarnia of 600 units of working-class, average buildings. They range in size from 10 units, 14, 18 and up. We are providing very low-cost rentals and face the fact and prospects of losing our properties and everything that we have. The difficulty has arisen as a result of rigid rent increase controls as against a landlord's uncontrolled expenses

relating to hydro, gas, garbage removal, maintenance, water, taxes and others.

I only have two points to make. One is about the costs. The second one is that we are in fact subsidizing tenants in these buildings. Are we to subsidize all the renters in Ontario, including the well-off and two-income families that pay the same rent as the old pensioners and the poor? It is the poor and the pensioners who should be subsidized.

What galls me no end on the properties we manage is that we will see a young couple—a teacher or nurse and her accountant or chemist husband—making $80,000 to $85,000 a year combined income and paying $550 for a two-bedroom, heat and hydro included, fridge and stove. Across the road is some poor soul, widow, with a total income of $14,500 paying the same rent.

This is what is so unfair about the rent controls. We are subsidizing, in the majority of cases, people whose incomes are very high relative to the rents that they are paying. The poor soul whose total income is $14,500 a year is paying $550 a month. These other people have an income of $7,000 a month. It does not make sense. You are penalizing the poor and the old and the pensioners when they should be getting a subsidy. Nobody wants to see these people out on the streets. No one wants to see that. I do not want to see that. I was born in the Depression from immigrant people in the Prairies. But what is happening here? We are supposed to subsidize the rich and the double incomes and the high incomes. In turn we get condemned and criticized by the poor. "Well, I'm paying $550 and I only have $14,000 income or $14,500." That is the person who should be getting the income. I mean, I could go on and on about this, but this is our complaint.

Another complaint is that all the rules for rent control emanate because of Toronto. I am from southwestern Ontario. Everything that works in Toronto does not work in Chatham, Wallaceburg, Blenheim, etc, or Sarnia. In Toronto, rents were able to be increased the minimum amount from 1975 on. Albeit the minimum amount, but they are going to get those increases. In southwestern Ontario, and under poor economic conditions, we could not increase rents in many years. We had to roll them back or give incentives.

So, what happens? 1985 comes along and you people freeze all the rents at the 1985 level. Well, in many cases our rents really were only the legal rents of 1978-79. You are saying that there are illegal rents charged. Yes, illegal. We are not charging the proper rents. We are way below the legal rent that should be, had we been able to kick in 5% or 4% every year.

You people are making us sound like we are criminals, we are thieves, we are getting rich, when in fact we are slowly losing our equities and properties. This has to stop. This is a democratic, capitalistic society. This has to stop. We are not criminals. We who invested in real estate, instead of investing in the stock market or in bonds, we are not criminals. Do not make us out to be criminals.

Not only that, not only did the rent freeze include the older buildings, it included the new construction, which you call MURBs. ARP means assisted rental program, where the government gave us money which we have to pay back later to make the rents affordable at market rents. Not economic rents, but market rents. Everything was frozen. Does nobody in these committees understand anything about day-to-day values in real estate? Does anybody in this committee own any real estate? Until you do, you do not understand the problems.

Mr Tilson: When you are involved, you have to.

1140

Mr Schafer: Yes. I have a solution here how we can remedy the low rents that have been frozen, that were below what they should have been in 1985. There are many ways in which this matter could be remedied. My suggestion is that, without access to the rent review process, a cap be established in 1991 of $550 to $575 for a one-bedroom apartment and $650 to $675 for a two-bedroom apartment. The market will determine the rents which can actually be charged, of course, and the normal permitted increase, as set out by the government of Ontario, will apply to the rents determined by the market.

In other words, instead of this confrontation with the tenants calling us crooks and thieves and everything else, just accept the fact that we are not in Toronto. We are southwestern Ontario, in a poorer part that would have been afflicted by economic conditions. Say, all of Ontario, any one-bedroom: no rent control up to $550, $575 for the year 1991 and no rent control on a two-bedroom up to $650, $675 for the year 1991. The confrontation, the aggravation, the stories you have heard from these people here, all that would be eliminated.

Of course, where the poor are really poor, give them a subsidy. Do not go building at $120,000 or $100,000 a unit what you call co-op housing and putting the poor in the brand-new housing. Who is to rent the older stuff? There is no shortage of rental accommodation in southwestern Ontario. There is only a shortage of people who cannot even pay $300.

I will give you the rent rates of the 600 units that I manage: bachelors from $325, including heat and hydro; one-bedroom is an average of $425; two-bedroom is an average of $500. Where do you think we are gouging and we are thieves and we are getting rich? You socialists had better understand that there is an economic factor and there is a market factor and there is a factor not to confiscate our properties. If this is what you have in mind, you are on the right road to confiscate our properties and to kill our equities. Is this the ultimate intention of you people—to make us lose our properties? We have put our lifelong effort into it and now we are supposed to be called crooks and thieves?

We also manage a property in London. We bought it in 1979 as a MURB. It was supposed to have been free of rent control. What do they do? You froze us in 1985 and London was very economically depressed in 1985. We were just getting on our feet after feeding those properties for four years. Everything is going up. Our hydro this year went up 8%, plus the GST—it is 15% our hydro has gone up. Our water has tripled in the last few years. Like I say, I could go on and on.

I just want a bit of fairness from you people, to understand that we are not crooks, to set the level of rents on one-bedrooms at $550, $575 without rent review process, and two-bedrooms at $650, $675 and to understand that we are subsidizing mainly the high-income people. That is who we are subsidizing. The landlords of Ontario are subsidizing the high-income people and we are penalizing the poor because we have to get that $550. Whether it is a rich man, a millionaire, or a poor man, we have to get $550, when my taxes are $1,000 or $1,100 a unit or $1,200 in some cases, and my heat, hydro and water is $1,400, $1,300.

Ms Harrington: You certainly had a lot of things to say here. I would like to let you know that we do not believe that you are crooks or thieves and we do believe in fairness. We have an annual guideline which is based on inflation which allows you to raise your rents, due to the costs that go up every year. We have also proposed in this legislation a pass-through system for extraordinary operating costs, which are municipal taxes going up and the other things you have mentioned like hydro.

Mr Schafer: But you are missing the most important point of what I said. Southwestern Ontario, outside of Toronto, when the rents were frozen in 1985, they were frozen at levels that sometimes were at the 1978-79 level. I am talking about this discrepancy by saying: have an average rent of a one-bedroom, $550 or $575, and a two-bedoom at $650 or $675.

Ms Harrington: I have read what you said, yes, and I heard what you said.

Mr Schafer: This is where the inequity comes in and the unfairness comes in. Now you are talking of rent control police. Mother of God, even in Russia communism is going out the door.

Ms Harrington: I wanted to make one point that some of the previous presenters have made and that is that it would be really nice if we had tenants and landlords in the same room, and I do believe—

Mr Schafer: You are living in Utopia. It is like the banker talking to you and—

Ms Harrington: May I finish my sentence please?

Mr Schafer: Just a moment, it is like the banker talking to you and—

The Chair: Order, please. Sir, we want to give you the chance to answer. We want to be fair to you and I have to be fair to the committee members. Mrs Harrington, please place your question.

Ms Harrington: What I was pointing out was that landlords and tenants, if they could be together in one room, as I believe they are here, if they would listen to each other, maybe some of the problems might be solved. The point that was made earlier was that stability is very important in people's lives and this is what we are trying to deal with, that people need to know they will not be evicted from their accommodation.

Mr Schafer: You already have that. You already have that provision. What else do you want? Do you have lifetime tenure?

The Chair: Sir, thank you. I am sorry, Mrs Harrington, we have to move on.

Mr Brown: First of all, I will tell you I am from Sarnia originally and spent about 20 years.

Mr Schafer: Oh, thank you.

Mr Brown: So I understand, I think, a little about southwestern Ontario and the fact that the economy in southwestern Ontario does not necessarily move in lockstep with the economy of the province.

Mr Schafer: Correct.

Mr Brown: Particularly in Sarnia, where it is geared to the petrochemical industry. We sometimes mirror the Alberta economy better than we do the Ontario economy.

I understand the point you are making is that in Sarnia during that period, it was not possible. The market-controlled rent increases, whatever rent review was doing at the time, meant you got locked in at prices that were very low vis-à-vis the real market value somewhere else in Ontario. Then when Sarnia's cycle came on and there were reasonable economic times in the place, you then could not reflect the true market rent at that time. You reflected market rent when it was low, but you could not represent market rent when it was comparable to the rest of the province. That is what is creating a large part of your problem.

Mr Schafer: And eventual loss of our building if this is not corrected.

Mr Mahoney: I have a lot of questions I would like to ask you, but considering the time, I will just come down to the issue you raised. I notice how you started out calm and got a little emotional. It is good to see that fire, because I know how you feel.

Mr Schafer: When you are losing your property, and your home as well, you will feel the same way.

Mr Mahoney: I understand that. The question I have is in relationship to the rent police that are being put forward. The issue supposedly is that landlords will gouge and they will pad their costs and pass it on and the records have to be accessible. If you were doing repair work and applying for an increase in the rent, would you voluntarily be prepared to put your cost figures forward and not require someone to come in in the middle of the night and seize your records?

Mr Schafer: So far, the way it is now about improvements, we have to spend the money first before we get a hearing, so we have our paid bills and cheques. What else do we need? We do not go and say, "We need an increase of X number of dollars for repairs." We actually have to do the repairs first and pay for them, and then go hat in hand to the rent people and beg to cover our expenses. We do not need a Mother Russia police force coming in and seizing our books.

Mr Turnbull: I must say I am hard pressed to see how this government's legislation is going to make landlords co-operate with it or with tenants, because this is doing exactly the opposite. It is confiscating their property without any compensation.

I notice that it says mortgages and appraisals on your letterhead. Are you an appraiser?

Mr Schafer: Yes, I do mortgage appraising and I sit on the board of National Trust.

Mr Turnbull: I am sorry. I want to be very brief so that I can get all of these questions in. Could you describe the three basic approaches to value of an investment property?

Mr Schafer: One is replacement value if you are building brand-new, so when you put out to tender. A second one is the economic value, which we cannot get. That is why there is no construction in Ontario. And the third is the market value of the rents that people are paying relative. Regardless of whether the unit costs $100,000 to build, if the market value states it is only $15,000, that is all you as owners will get for that building, $15,000 a suite.

Mr Turnbull: It has been alleged by tenants' groups and by the government that those landlords who are saying they are going to lose their property now as a result of this legislation and Bill 4, it is because they overpaid for the property. Would you like to comment on that?

1150

Mr Schafer: No one overpays for anything, starting with a normal house. When you are looking for a house, you see 10 or 12 homes in the area that you intend to buy. You have a fairly good idea of what the market value of that property should be. You are not inclined as a home buyer to overpay, nor as a businessman who, instead of investing in stocks and bonds is investing in real estate—only a fool, and you do not find fools with money.

Mr Turnbull: My last question is twofold. What would be a reasonable rate of return, an internal rate of return over the 10-year ownership of an investment property of this nature? Also, are you in danger of losing all of your equity in your building?

Mr Schafer: You can buy any blue-chip stock—Ralston Purina, Heinz—and you will get an internal gross of up to 20%. I would be happy with 15% or 12%, but in many cases we are subsidizing the buildings. Our better buildings are feeding the ones that need repairs, because when tenants move out sometimes we spend up to $2,500 a suite. We cannot go to rent review on every suite. We can only go to rent review on the overall balance when we need roofs, windows, fridges and stoves. We are being bled to death.

The Chair: Mr Schafer, thank you for your presentation this morning before the committee. Time has expired.

Mr Abel: Just on a point of clarification, the subject of search and seizure has come up several times and it would appear to me that there is some uncertainty about how it actually works. Would it be possible to have clarification from the ministry just to clear that up?

The Chair: Is there a ministry staff person who could come forward and clarify the matter of search and seizure?

Mr Irwin: I am Terry Irwin from the ministry. The search and seizure provision comes up under section 113 related to duties of inspectors. It is clear under subsection 113(2) that inspectors' duties are related to prescribed maintenance standards only. We then get into—

Mr Mammoliti: I am sorry. What act are you referring to?

Mr Irwin: I am sorry, this is Bill 121.

Mr Mahoney: That is what we are doing, George.

The Chair: Order, please.

Mr Mammoliti: Mr Chairman, just for clarification, there are a lot of people here today and I am sure that they are wondering what act we are talking about.

Mr Mahoney: That is for sure.

Mr Mammoliti: I will continue saying that you are as rude as ever, Mr Mahoney.

The Chair: Can we please have the gentleman give us the explanation that has been requested?

Mr Irwin: At subsection 113(7), it sets out the power to enter a dwelling without the consent of the occupier, only under the condition that a search warrant has been obtained under section 114. Just to clarify, the search and seizure provision is only related to issues dealing with the prescribed maintenance standards, and only in conditions where there is no consent of the occupier of the dwelling, a search warrant is required.

Mr Brown: Could you define "occupier of the building"? Who is the occupier? Is it the tenant? Is it the landlord? Who is the occupier of the building?

Mr Irwin: I believe Ms Poole asked that question yesterday or the day before and we are providing an answer to that question.

The Chair: Can we have a short answer now?

Mr Irwin: A short answer?

The Chair: Is it the tenant or the landlord?

Mr Irwin: To put it simply, if it is an issue on suite within the unit, it would be the tenant; if it is an issue with common area, the lobby or what not, it would need the consent of the landlord.

Mr Turnbull: My understanding, if it is correct, is that there is no prior notice of this order; just the officer comes with that and they have to turn over the records immediately. Is that correct?

Mr Tilson: Reasonable prior notice, except no one knows what that means.

Mr Irwin: Reasonable prior notice.

Mr Tilson: It could mean anything.

Mr Irwin: Yes. Reasonable prior notice under subsection 113(2), and it sets out hours for that period.

Mr Turnbull: Are we talking about 24 hours in this or what?

Mr Irwin: I am not a lawyer, but my understanding is that the wording parallels other legislations that set out the search warrant and entry provisions.

Mr Turnbull: That essentially gives you immediate access under that type of legislation, whereas my understanding is that under the Landlord and Tenant Act a tenant requires 24 hours' written notice and it should be at reasonable hours that you get access to their apartment. I am

hard pressed to understand that we have a more punitive approach to landlords than we have to tenants for inspection.

The Chair: That is a policy question that has to be discussed with the government and within the committee. That is not a strict question based on the information we wanted. I am sorry, Mr Turnbull. Did someone here have a question?

Mr Mammoliti: I just wanted to clarify that is one of the reasons I asked what act perhaps he was referring to, whether or not there is an overlap there of some sort.

The Chair: Are there any more follow-up questions? Mr Mahoney.

Mr Mahoney: I think that it is helpful that this request for clarification was made, because it is clearly an attempt to paint this section of the legislation as somewhat innocuous and really not draconian at all. I just want to get some clarification. When you say there is some maintenance work—let's take an example. There is some work done on the roof and the landlord is applying for an increased rent in the 3% category. Then someone can come in with a search warrant and seize the records, search the office and seize the records to bring them in as evidence in the hearing or in the decision-making process. Is that basically what you are saying, that those kinds of police powers are being passed on in that situation?

Mr Irwin: The way I understood the question, Mr Mahoney, it dealt with an application for a determination of a rent and possibly related maintenance issues.

Mr Mahoney: Such as ongoing maintenance or repairs? Would you consider maintenance the repairing of a boiler, or do you consider—not you personally, Terry. Does the act consider repairing the boiler as maintenance or as capital works?

Mr Irwin: No, the maintenance issue here would flow out of a potential violation of the maintenance standard. It may have nothing to do with the setting or determination of a rent. In other words, where a tenant has a complaint about an outstanding maintenance issue, that might lead to a work order.

Mr Mahoney: Maintenance could be they did not pick up the debris in the parking lot or something of that nature. I am trying to understand if this is like everyday maintenance of household-keeping type of issue, or is this maintenance that requires the expenditure of some dollars that would then be reflected in a rent application?

The Chair: I think we are going to have to set aside—

Mr Mahoney: Mr Chairman, this is extremely important, because, as I mentioned, I think there is some attempt to paint this out as innocuous. If it is innocuous, I think the committee should know that, but if in fact it is vesting in some individual designated by the government the power to search and seize and simply go to a JP and get a search warrant—and we all know how quick and easy it is to deal with justices of the peace these days. You simply go and get your search warrant and come in and violate someone's privacy. I want to know if it is the extreme of violating civil rights, or is it truly the innocuous position the government members would like us to believe, "It's okay, they're just going to ask them for the records." I think it is one of the absolute, fundamental cornerstones of this legislation and the mentality of the government putting forward giving people the authority to violate people's civil rights.

Interjections.

Mr Mahoney: You cannot get an answer here, with all due respect to the staff, as to what it means, and maybe we should ask for a written report on this section that would outline exactly what kind of circumstances would occur that would require people to be put in this position.

The Chair: As a matter of fact, I was going to make some kind of recommendation in line with that, because it is taking a little longer than I had anticipated, but I saw three hands that went up, so we have Mr Mammoliti, then Mr Abel and I thought I saw a nod from Mr Turnbull.

Mr Turnbull: I was just agreeing with what Mr Mahoney said.

The Chair: Okay, then we have Mr Mammoliti and Mr Abel.

Mr Mammoliti: I cannot agree with what Mr Mahoney said.

Mr Turnbull: You never do, George.

Mr Mammoliti: I would say I think he is exaggerating somewhat, but I am concerned. I am concerned about the two different acts, and that is one of the reasons I asked, because I thought I saw the Landlord and Tenant Act in front of him, and that is one of the reasons I asked you to clarify what act you were reading from. I personally am concerned about what act would supersede what act would supersede what act, on a personal note. I am glad we brought this issue up because I can see that as an issue late on. I think the ministry could perhaps look into it a little deeper.

1200

The Chair: I know we are putting the ministry official on the spot today, but it is an important issue.

Mr Abel: The way the whole search and seizure thing is set up in Bill 121, does it treat landlords any differently than anybody else when a warrant is issued? Are they treated any differently?

Mr Irwin: I am not a lawyer. My understanding is that it does not treat them any differently. When we have the lawyers here, maybe—

Mr Turnbull: It is equal treatment with drug dealers. Do not worry.

Mr Mahoney: Could we get some clarification on that? What do you mean it does not treat people differently?

Mr Tilson: Tenants are given the right of refusal in subsection (8). Landlords are not given the right of refusal.

Mr Mahoney: Has this government got the right to come in and search my home and seize records out of my home? Is that treating me differently than them? What kind of nonsense are you guys trying to perpetrate here?

Mr Mammoliti: Is he out of order, Mr Chairman?

Mr Abel: You are a disgrace.

Mr Mahoney: You are a disgrace. Tell the truth.

Mr Turnbull: You are all playing up to the cameras. This is the truth, that the government likes to duck out of the fact that it is bringing in such draconian legislation.

Mr Duignan: You like to duck out of the facts. You do not believe in protection.

Mr Turnbull: You do not understand the facts.

Mr Duignan: Of course I understand the facts.

Mr Turnbull: You have not read the legislation. You do not understand it because you have never owned anything in your life.

Mr Duignan: Never did and never will.

The Chair: We had originally called the ministry official to come forward to give us some off-the-cuff remarks as best he could.

Mr Abel: It is too bad the opposition tried to exploit it.

The Chair: It has developed into lengthy questions and answers and I can understand why it has developed into lengthy questions and answers. I would like to say that—

Mr Abel: It is called grandstanding.

The Chair: Order, please. I would like to say that what we need from the ministry officials is a review of the Hansard from this section of today's proceedings. The committee, myself especially, and all the witnesses who have come forward this morning and everyone who is here today, I think we deserve a written and full explanation of the questions that were put today so that it can become part of the official record. All of us, and I mean all of us, can then come to our own conclusions once we have that information made available and distributed.

Now I have two points of order that we are going to deal with, one from Mr Mahoney and then from Mr Mammoliti.

Mr Mahoney: I will accept your ruling if we are going to get a written analysis of the questions and not simply, with due respect to the staff, an opinion preceded by the statement that the staff person is not a lawyer. If we are looking for a legal opinion, we should get one. If we are looking for some interpretation of the legislation from staff's perspective, we should get that. Then, obviously, we would be allowed to decide whether or not we accept that interpretation. Simply getting that interpretation does not make it so. It is obviously subject to differences of opinion.

Regardless of what Mr Abel or others think is going on in this process, the opposition's role is to defend the rights of all the people of this province when they see areas where the government, in the opinion of the opposition, is acting inappropriately. For them to be name-calling and acting in such a childish, silly manner simply because we are putting forward our concerns I think is totally out of order and shows the lack of experience of these members of the government.

Interjections.

Mr Mahoney: As you can see, they are getting a little excited, which always delights me and makes my day.

The Chair: That is really not a point of order. Mr Mammoliti, do you have a point of order?

Mr Mammoliti: As you know, I like these hearings to go as smoothly as possible and it irks me somewhat to—

The Chair: What is your point of order?

Mr Mammoliti: My point of order, Mr Chairman, is that two individuals on the other side of the table here have interjected frequently during our visit here in Windsor. I would like it just stated for the record that they are out of order by interjecting and by the name-calling that—

The Chair: Order, please.

Mr Mammoliti: I am not finished, Mr Chairman.

The Chair: What is your point of order?

Mr Mammoliti: Again, for the record, I want you to rule that Mr Mahoney and Mr Turnbull were both out of order in the earlier discussion by interjecting—

The Chair: Order, please. That is not a point of order. I have told all committee members from the first day we started having hearings that the rules and procedures that govern the Legislature are the rules and procedures, more or less, that govern the work of this committee. Yes, interjections are out of order and interjections have come from all sides throughout these whole hearings. I have tried to be fair and evenhanded and I have tried to tell everyone that their interjections are out of order. Are there any other points of order or any last—

Mr Mammoliti: Just that the grandstanding is coming from the other side.

The Chair: Do the ministry officials understand the request that has been made by the Chair?

Mr Irwin: Yes.

The Chair: Do you have any guess as to the time it would take to receive the request?

Mr Irwin: We will endeavour to get this early next week, Monday or Tuesday.

The Chair: Thank you very much for your co-operation.

TWIN ELMS TENANTS' ASSOCIATION

The Chair: The last presenter for this morning, Twin Elms Mobile Home Park. I think you have been watching some of our proceedings this morning. We will be following similar procedures. Your organization has been allowed 15 minutes and you can withhold some time for questions and answers. We do need you to identify yourselves for the official record.

Mr Mitchell: My name is Alexander Mitchell. I am the president of Twin Elms Tenants' Association. This is Mr Fred Stevens, who has been a tenant in Twin Elms Mobile Home Park for—approximately 17 years, Fred?

Mr Stevens: Fifteen years.

Mr Mitchell: Fifteen years, I am sorry.

Twin Elms Tenants' Association is a member of the Ontario Owned-Home Leased-Lot Federation. As president of Twin Elms association, it gives us great pleasure to address to you some of our main concerns with regard to owned-home leased-lot communities. It is hoped that our comments will be taken into consideration when you, ladies

and gentlemen, compile your final report for presentation to the Legislature.

Twin Elms Estates Mobile Home Park is a retirement community comprised of 162 moderate cost, well maintained, factory-built homes located in the township of Caradoc, just south of the town of Strathroy on Highway 81. Most of the residents of this park are retired senior citizens, with approximately 40 widows or widowers with fixed incomes. These tenants have an investment in the park of approximately $12 million.

While Bill 121 is an improvement over the previous legislation, it does not adequately cover the situation regarding owned-home leased-lot communities and gives no protection to the tenants under the Rental Housing Protection Act. Our landlord attempts, on rent review applications, to confuse the issue by describing the rental units as "bare land rental" or "vacant lot rental," even though this park has fully serviced lots with hydro, water, sewers, telephone, cable services, together with driveways.

Section 1 of the act does not give a clear, concise description of an owned-home leased-lot and should be amended to fully clarify the following types of land rentals:

Bare land, in our estimation, is normally for agriculture or storage use;

A fully serviced lot is normally found in a recreational mobile home park, which has seasonal occupants;

An owned-home leased-lot is where a tenant has purchased his unit from the landlord or a holding company and therefore is entitled to lease a fully serviced lot within the residential complex as defined in the act.

Non-registrability of the modular or mobile homes: Many landlords consider these types of homes as chattels and many owners do not have a clear, positive proof of ownership, even though the unit is owned free and clear.

A registration system should be considered where an owner-owned unit in a leased-lot community is registered with the Ministry of Revenue assessment division within 30 days of change of ownership for a recommended fee of $25. This would entitle the unit owner to receive the assessment and tax notices and pay the taxes directly to the township or the municipality without reference to the landlord.

1210

For example, in Twin Elm Estates, the total taxes for 1990 were $98,885.17. Of this sum, the tenants paid $91,861.11 in monthly instalments commencing January 1, 1990, to December 1, 1990, inclusive. This resulted in the majority of tenants overpaying their taxes and having to wait on the landlord's pleasure to refund the overpayment.

Security of tenure: Rental Housing Protection Act, 1989. It must be understood there are in excess of 4,000 tenants in an owned-home leased-lot situation in nine communities in central and southwestern Ontario which comprise the Ontario Owned-Home Leased-Lot Federation who must have protection from closure and modification of these types of parks without consultation, investigation and approval of the municipal council or other government agencies. Our landlord uses the threat of part closure as a means of intimidating tenants to get his own way. This threat has been used in our park as recently as one month ago when his agent stated if he does not win his appeal in the Divisional Court in Ontario or, "If you don't like it here, take your unit and move."

As these residential complexes are regulated by references (a) and (b), it cannot be too strongly recommended that protection be provided through the Rental Housing Protection Act, 1989. In order that the act could cover these parks more readily, it is recommended consideration be given to amending the title of the act to read, "Residential Housing Protection Act," with an additional addendum to the act to cover owned-home leased-lot communities. I have shown the references and also the Legislature research which was issued in 1990-91.

We are now coming to a part that is very touchy to the tenants in our park, non-registrability of leases. Prospective buyers of modular homes in some owned-home leased-lot communities are not always advised that a lease is or may be required. In our park, the purchaser is not given a lease until after he or she has taken up occupancy and, when reviewing the lease, finds they are tied into a situation that is hard to get out of.

The leases presented are for various periods of time. For example, one and a half, two, four, six months or as high as two years. The tenant then becomes a monthly tenant under the terms of the lease. Normally leases are for a period of 21 years less a day, or in any event, less than 21 years, so as to avoid the cost and the municipal scrutiny of having the land registry with a plan of subdivision. I think a possible action is to make the leases of an approved standard format that must be for a period of not less than 10 years, with a cancellation clause of 120 days by either party. Amend the Planning Act to require the filing of a reference plan for all owned-home leased-lot communities.

I have attached a copy of a lease for your perusal and this is a lease for one and a half months. It started on the 14th day of July 1989 and ended on the first day of August 1989. We do not know why.

I think most of the questions I have broached here are also contained in the owned-home leased-lot community's research 370/90-91, which I understand is in the legislative research service. Thank you.

The Vice-Chair: Thank you. We have some time. Mr Mahoney.

Mr Mahoney: Thanks very much. Thank you for your presentation. Just to get some clarification, on page two, so I understand this, you are saying that the total taxes for your community were $98,800 but the tenants paid $91,800, therefore they overpaid. What the tenants paid is less than what the tax bill was. I do not understand.

Mr Mitchell: What happens here, the landlord's share of that tax bill of $98,000 was slightly over $7,000. That was the landlord's share.

Mr Mahoney: So that made up the balance. The tenants paid $91,800 and the landlord made up the balance.

Mr Mitchell: That is right.

Mr Mahoney: Are you then saying that the landlord's share was not enough?

Mr Mitchell: No, what I am saying is what we are doing now is paying by monthly instalment. He says, "I want $75 a month for taxes." In my own case, after

December 31 this year, he will owe me approximately $102. We have had some figures as high as $125.

Mr Mahoney: You are just saying he acknowledges that overpayment and gives it back to you, but he does not do it quickly enough.

Mr Mitchell: It takes you a little while to get it back. It took me two years to get back my 1988.

Mr Mahoney: Your suggestions here on possible action are of some interest. I guess there are two points. As I understand it, the reason the term of 21 years less a day is used is that 21 years traditionally in law—it used to be this way—was considered a lifetime contract. I believe it is still the case. But why would you arbitrarily pick 10 years? If somebody wanted to lease a lot for five years with a renewal clause and the landlord agreed, why would you not allow that to happen?

Mr Mitchell: I think that could be considered, but I do not feel leases should be a month and a half, two months, four months, six months. We cannot find out the reason why he is trying to do this. Even our legal adviser—

Mr Mahoney: Your concern there would just be turnover, that you do not get a sense of community, that type of thing?

Mr Mitchell: That is right. We have a peculiar park. We are having real problems. We are still dealing with our 1987-88 rent review.

Mr Mahoney: Before I leave the tenure, it is important to me because what, in essence, you are saying is that there should not be an allowance for any short-term rentals to be made in the park.

Mr Mitchell: Not in a retirement community such as ours, because who is going to go in and invest perhaps $65,000 or $75,000 in a unit for one and a half months?

Mr Mahoney: You are suggesting to amend the Planning Act. If you were going to amend the Planning Act to require them to file a reference plan and put restrictions on the length of the lease and other restrictions, would it make sense to deal with mobile home parks totally separately from this legislation, for them to have their own piece of legislation?

Mr Mitchell: Definitely. Within the residential rent regulation, I think there should be a different, a completely separate section, and it must be fully identified.

Mr Tilson: Actually, it is ironic that when we talk about the adversarial system between landlords and tenants, you are one group in which the tenants and the landlords actually agree on something, that either this issue should be a separate section in the act or it should be a separate act. Of course the response we are getting from the government is that there is an interministerial committee working on it. They do not know really too much about it.

I do not know how much consultation you have had. I would like to hear your thoughts on that, because there are obviously very serious problems, not only the problems that you have talked about but the problems that occur with a seasonal unit. Roads are designed for seasonal times and then the whole park is changed into a permanent lot so the roads are inadequate. There is the issue of the environment, where you have a sewage system that may have been adequate 15 years ago and obviously may not be adequate now under regulations. Who is going to pay for all of that? Are the tenants going to be stuck with all this? Clearly, separate legislation is required for the very serious problems that have nothing to do with this act.

Your paper is certainly an excellent paper. I would like to hear what consultation, if any, you have had with either Minister Cooke or Minister Gigantes.

Mr Mitchell: I have had very good co-operation with the Ministry of Housing. They are concerned with our problems in our park. As I just finished saying, we are going to Divisional Court on October 13 to defend our 1987-88 rent review.

Mr Tilson: My question was specifically to your input with respect to either a separate section in the act or indeed a separate act.

Mr Mitchell: I have written numerous letters to the Housing minister. They have them all on file there. I think I have been writing them for the last 12 months.

Mr Stevens: Our park, as a member of the Ontario Owned-Home Leased-Lot Federation, has been involved in a great deal of communication with the Ministry of Housing, over a number of years, several years. This presentation of ours today is one which we hope has been supported by representatives of the other eight members of the Ontario Owned-Home Leased-Lot Federation.

I think I can summarize what I have said by saying we have had a great deal of communication with the Ministry of Housing and other ministries over a number of years. Our federation has made many suggestions to the interministerial committee that has been in place, I believe, for two years or more. We feel our position has been very well described and our feeling on the matter have been very well put to the government bodies involved in consideration of these problems.

Ms Harrington: I think you have made it extremely clear that this association you belong to, as well as your particular community, feels you definitely need protection. That is why you are here. I have heard various concerns about exactly where you live. It seems obvious that over the past few years previous governments must have put this issue totally on the back burner, because nothing seems to have been happening.

We have come in as government and I have been very concerned about this kind of community because in fact my mother-in-law lives in a home like yours. I know the kind of situation they were threatened with. It is not even in Ontario, so I cannot comment on that, but even in the municipality I come from, Niagara Falls, and various other places in Ontario, whether it is environmental concerns or planning concerns, they are being pushed out. We want this type of affordable housing as an option in Ontario and we have to give it priority. Hopefully as soon as this report comes out we will come to grips with it and do something as quickly as we can, because you are saying, "We need protection desperately."

I have a couple of quick questions. Is it true that the owner of this property—I believe you used the word "threats"—is it true that there is this kind of intimidation and threat going on? Second, are there people who ask for receipts for cash for their payment and cannot get receipts?

Mr Mitchell: This has been a problem in our park. We had a gentleman 80 years of age who went to pay his rent by cash. The landlord refused it. He said, "I'm not giving receipts." Eventually, he assaulted the 80-year-old man by shoving him out through the door.

Mr Duignan: Your landlord appeared in front of the committee yesterday in London and basically wants no regulation. He claims there are no maintenance problems. Are there any maintenance problems in your particular mobile home park? Also, what kind of increases have you been experiencing over the last couple of years?

Mr Mitchell: The maintenance problems? I do not see where he has got them. He has no maintenance on any of the rented lots, the units, because we pay for all our own maintenance. If I want my septic tank pumped, he charges me $75. If I want my water cut off, if I bring an outside plumber in to have my water cut off, so I can have my system blown for the winter before I go south, I have to pay a $30 fee for his handyman to check a tradesman to see he did the job right. These are the kinds of things. He has closed our clubhouse. He has closed the swimming pool. He has taken away our park benches.

Mr Duignan: Is the reason he is appealing the decision in the provincial court that he is applying on the basis he is a tree farmer?

Mr Mitchell: That is definitely incorrect. There is a statement that he made to the administrator. He stated, "I planted the trees to protect the watershed."

Mr Duignan: The owner received a rent increase to finance the purchase of snow plows, grass cutters, etc, but do you not do all that yourself?

Mr Mitchell: I just computed some figures for our general meeting here last month. The landlord has submitted as capital expenditures an estimate of $550,000. The rental income for the whole property for one year is approximately $287,000. Of that, $220,000 is earmarked for tractors, snow plows and tree diggers.

Mr Stevens: There is a mile and a half of road in the park.

Mr Mitchell: There is only a mile and a half.

The Chair: The time for this morning's session has expired. I want to thank the witnesses for coming.

The committee recessed at 1225.

AFTERNOON SITTING

The committee resumed at 1401.

SUN PARLOUR PROPERTY OWNERS ASSOCIATION

The Chair: The first witness is Sun Parlour Inc Property Association. We will be following the same procedure we used this morning: 15 minutes for the presentation with some time reserved for questions and answers. We would just ask you to identify yourself for the Hansard record, and we will turn the floor immediately over to you.

Ms Kamen: Good afternoon. My name is Sylvia Kamen. I am president of the Sun Parlour Property Owners Association, and I am here to speak on behalf of our membership. Our membership consists of landlords here in Windsor, Tecumseh, Leamington, Amherstburg and Ruthven.

I want to start first with presenting to the ladies and gentlemen here some copies of the classifieds in the Windsor Star to show exactly what is going here in Windsor and the problems we are having. We have tremendous vacancies. We have just barely recovered from the 1980-1984 recession when we had landlords losing their apartments, losing their homes, and here we go again. I have copies here I am going to pass around. The ones that are circled tell you what is going on in Windsor.

We now have apartments where you have a half a month's free rent, a month's free rent, one and a half months' free rent, two months' free rent. Now, you have to be pretty desperate when you start giving things away. This is the overabundance of apartments, the overabundance of public housing, which has now become our competitor. Yet we hear we need housing. That is nonsense. These ads tell it all of what is going on in Windsor and in Toronto and over the entire province. I had one landlord send me today a copy of a classified from Leamington, saying that this is now starting to become very serious in Leamington.

I am going to show you another thing. Not only do we have tremendous vacancies, but the Windsor Housing Authority—this is subsidized housing—has now put a classified ad in advertising apartments. This is how many vacancies we have. The Windsor Housing Authority now has ads for single homes, semi-detached, town houses, apartments—two, three and four bedrooms. Apartment rents start at $582 per month. We now have the housing authority advertising for tenants. I can tell you that one of the major complaints that we have had from our landlords is that we are now losing our tenants to government housing, and that government housing has now become a competitor to private industry.

Here you are, sir. This is from the Leamington paper.

So much for a need for additional housing. I am here to represent our membership, who have told me their concerns concerning Bill 121, and I want to bring a few points to your attention as to the unfairness of it, and how destructive this legislation will be to the entire housing industry in Ontario if it is passed.

To begin with, with every building of more than six units the annual guideline increase will be substantially reduced. The guideline formula will be based on 50% of inflation in building costs rather than the 66%, and if that formula were in place this year, you would receive only 4.6% rather than the 5.4%, an across-the-board reduction of your cash flow by 20%. In addition, this reduced guideline will also have to fund common-area capital replacement of items such as fridges and carpets, since they do not meet the new definition of capital qualifying for an increase over the guideline.

Under Bill 121, increases above the guideline will only be allowed to a maximum of 3% each for two years for large buildings and three years for small buildings, and to qualify for the 3% you actually have to spend 5% per year, since the government has deemed 2% to be included in the guideline for capital. In other words, you will have to plan your capital spending such that it will not generate an allowance of more than 10% over two years. A garage repair will have to broken into a series of projects spread over many years, at a much higher overall cost and greater inconvenience to tenants. You will have to miraculously select the perfect time to do the work. Too early and it will be disallowed as unnecessary capital; too late and it will be ruled as a result of neglect. After all this, if you managed to skirt every minefield, the government will magnanimously allow you to recover 60 cents on the dollar.

Remember how Dave Cooke promised that those caught with capital expenditures they could not recover under Bill 4 would be treated fairly under the new law? Chalk it up to another NDP broken promise. These expenditures have also been capped at 3%, and a landlord who spends $3,000 per unit on capital in 1990, which would have resulted in a $32 rent increase under the old system, will now be allowed only $15.76 spread over two years. Almost half of the costs will never be recovered.

The new law proposes to penalize any landlord who does not comply with a work order within 30 days of it being reported to the ministry. Notice, that does not say, "Make a reasonable effort to comply." You must actually show that the work has been done. If the plumbers are on strike or the railings cannot be replaced in January or the job simply takes more than 30 days to complete, too bad. This applies to every work order, no matter how trivial. A rent increase, including even a guideline increase, can now be challenged on the basis of a missing knob on a cabinet. In other jurisdictions this has lead to tenant abuse of the system by filing frivolous claims or actually vandalizing the building and then calling the municipal inspectors.

1410

This legislation is an invitation to problems. Maximum rent can now be reduced. It is not just your increase that can be challenged; tenants can actually seek to roll back the legal maximum rent on the vague grounds of inadequate maintenance. Even more frightening, one single tenant can complain about maintenance standards by claiming, for instance, that the common areas are not

cleaned enough for his standards. He can then challenge the maximum rents for the entire complex.

All the increase will be stayed on the issues decided, which, by the way, will be done by officers of the Ministry of Housing, not by an arm's-length body. It is this type of uncertainty which makes it impossible to take business decisions and renders the rest of the bill meaningless. Even if a cap was introduced which provided sufficient flexibility for funding of capital, how could it be financed when not only this increase but even the guideline and the base rents could not be guaranteed?

For most landlords, mortgage payments are the largest single expense category. An increase in mortgage interest rates, which are completely beyond a landlord's control, could lead to bankruptcy if there is no way to pass the costs through rents. Yet Bill 121 eliminates the landlord's ability to pass through increases resulting from high interest rates.

This week, long-term mortgage rates stopped falling, and have begun a tiny reversal. When they start to climb sky-high again, as they will in the inevitable course of time, the bill will wreak financial havoc on the industry.

By permanently eliminating any consideration of financial loss, Bill 121 will reduce the value of every apartment building in Ontario by from 25% to 40% compared to pre-NDP values. For recent purchasers this would mean the expropriation of all equity and possibly the loss of the building, and long-time holders will see their equity greatly eroded, destroying the retirement saving plans of many small landlords. The real value of the buildings will be fixed at those reduced levels for ever, since there is no way for a future purchaser to recover any higher costs.

For the past five years the rent registry has essentially been inoperative. The bureaucracy was unable to cope with the task of registering and providing notice for the limited number of large buildings in the province. Now the NDP has decreed that tens of thousands of more buildings which contain four to six units will also be required to register. Some landlords can now look forward to the same administrative horrors large landlords have had to face. Who will pay for this army that you are going to have to hire to do all of this?

Statistics for 1990 from the Ministry of Housing report that since 1985 the Ministry of Housing's operating costs have increased 236% and that the cost of maintaining the ministry is $540 million. Former Housing Minister John Sweeney says social housing costs will soon exceed $900 million. I say it is going to be well over $1.5 billion if this boondoggle is allowed to continue on.

Sometimes someone will write an article that is so intelligent and so informed you cannot possibly improve on it. I read this article in the Windsor paper of July 27 written by Dewar Laing. I would like to read it to you. I think it tells you everything.

"I was greatly disturbed when I opened the July 4, 1991 edition of the Windsor Star to find that the guest columnist was Minister of Housing Dave Cooke. The purpose of Cooke's article was to congratulate himself and his government on the new rent control system. There are a few things that Cooke forgot to mention in his article. For example, he forgot to mention that Bill 121 is intentionally prejudicial to landlords in a manner unmatched since the expropriation of the property of the Jews in Nazi Germany. Or that it interferes with personal property rights and civil rights for both landlords and tenants. Or that it denies landlords the simple right to make a profit. Or that it will result in an increased tax burden for property owners in order to continue the current level of subsidized rents. Or that it presumes every landlord to be guilty of the misdeeds of a few and punishes all of them without exception or explanation. Or that it denies landlords the right to due process of law and allows bureaucrats to be prosecutor, investigator, judge and jury. Bill 121 is an agenda for the socialization of all private stock housing in the province of Ontario. At a previous seminar that I conducted, Cooke told a handful of landlords that he did not represent the people in the room. The 'people's party' has formed a government 'of the people' for only some of the people.

"Landlords are paying to be put out of business. They pay the taxes that help pay for the construction of subsidized housing; they pay the difference between what the government allows them to charge for their own units and what it actually costs to service them; they pay for their vacancy losses when their tenants move into public subsidized housing; and they pay the taxes that make up the difference between what the tenant pays in public subsidized housing and what it actually costs the government to operate these units. Landlords have been forced into an unwilling partnership with the government for the provision of subsidized housing without any recognition or compensation.

"The government has decided that all landlords in Ontario are speculators of the most sinister sort. The government assumes every landlord 'flips' buildings at inflated prices to intentionally create losses. The idea, apparently, being to use these losses to justify rent increases. Quite frankly, I know very few landlords that are wealthy enough or stupid enough to invest their money in this manner. Nevertheless, this is the reason that a landlord's right to make a profit is now gone. The result is that a purchaser cannot buy a rental complex for more than the current rents can carry, regardless of the fair market value of the building or how outdated the rents may be. If a landlord is not making a profit from a building now, he can never expect to. The sad reality is that the government has made some slums more valuable investments than well-maintained buildings, simply because the rents are higher. The tail is wagging the dog. Rents now set the value of buildings rather than the value of the buildings setting the value of the rents."

More frightening, however, is that the NDP with its new Bill 121 has created a new police called rent inspectors. "They are granted an unfettered right of search and seizure." All they have to do is state "that they believe there are documents on the premises that could be useful in prosecuting a landlord. They can go into a landlord's home or place of business without warning and remove all records that they choose."

I do not think there is a criminal in this country who does not have more justice than the landlord in this province.

There is not a murderer, a rapist or a serial killer who does not have more rights, where the police would not dare to go into his home without a search warrant and without going before a judge and getting probable cause to invade his home, but Bill 121 is going to allow it. There used to be another government that had the same policies. I think they were called the Nazis and their own people were called the Gestapo.

In addition, there will be no longer an appeal board. Instead, issues will be heard before a rent officer and landlords will have to make applications for hearings before the rent officer. However, this is what decides—

1420

The Chair: I just inform the witness that we have pretty well expired the 15 minutes.

Ms Kamen: I just have a few more words and you can take it off my questioning time. This is very important.

The Chair: All the time has been used, was the point I was trying to make. If you are willing to end the formal part of your presentation now, we can allow one short question before we—

Ms Kamen: Do you not want me to finish?

The Chair: The time has expired, so I would need permission from the committee—

Ms Kamen: Fine, then I will just make one statement. Bill 121 is not intelligent, useful, worthwhile legislation. It is a blueprint for the destruction of private housing in this province. I would like to ask, not only as a landlord but as a taxpayer, why this government is destroying private enterprise in this province.

Mr Turnbull: Mr Chair, can we allow the governing party to answer the question the lady has just put? I think it is most germane.

Ms Harrington: It is up to the Chair.

Interjection.

The Chair: Mr Mammoliti, let me rule. I do not need you to constantly be on me to make a ruling. I will make a ruling. Mr Turnbull made an interjection and a suggestion. Give me a chance to respond.

I have told the witness and all members of the committee about two minutes ago that the time was up and that we would allow one question per party if there was consensus. There is no consensus for that, so I have to apologize to the witness and let the witness know that I can only allocate to her the time the committee has agreed to at the beginning of the hearings. I wish we could have questions and answers and I wish I could give you more time but I am unable to, unless there is full approval by the majority of the committee members to do so. I do not think I see that approval, so thank you for making your presentation today.

DON BARRATT

The Chair: The next witness is Don Barratt. Sir, we will be following the same procedure of 15 minutes, and you will have to retain some time for questions and answers if you wish.

Mr Barratt: My name is Don Barratt. I am a landlord. I own an apartment building in Cambridge, 29 units, and a complex in the county of Essex, 28 units. I also own some houses in southern Ontario. I manage these properties myself and I work about 80 hours a week, so coming to these meetings is a real pain but I feel I cannot afford not to come.

There are about 20,000 landlords in this area, if you count duplexes and people renting parts of their houses. I found it incredible that there are not at least 2,000 landlords protesting. I would like to thank the few landlords who came today for coming.

I only have 15 minutes to speak, so I could not reply to the whole of Bill 121. I will have to review a few pieces, but first I would like to talk to you about the vacancy rate, in case I forget.

All I hear is about poor old Toronto. I lived in Toronto for 20 years and I never saw anybody sleeping on the streets, but all I hear is dire shortage and people sleeping under wagons and on the railroad tracks. You keep going by the CMHC figures of vacancies. I have the Toronto Star, if anyone cares to count the ads. There are houses and condominiums, 1,376 listed for rent, and the regular apartments, 1,280. In other words, there are 96 houses and condos, more ads than the apartments, and yet those are not counted by CMHC. In other words, the vacancy rate you get from CMHC is phoney, because it does not count anything less than three units.

As I explained to you, I am an experienced landlord and I owned property in Toronto. I do not now, but when I was there and put an ad in the paper I never had a lineup, so where the hell is the dire shortage? It is absolute nonsense. It is the same around in this area. I have an ad running now for a town house and if I get one call a day I am lucky. Sometimes I get two calls, but it averages about one a day, so I really do not know why you need rent controls.

Now I will go to a little bit of Bill 121. There are so many things in there, I cannot possibly cover it all in 15 minutes. If anybody has this in front of them, section 19, I would hope the committee has it there; how many have it? One?

The Chair: We all have it.

Mr Mahoney: We know what is in there. Go ahead.

Mr Barratt: You all have it. All right. Page 19, section 19—I will just read it: "If an application is made under section 13 and the landlord has given a notice of intended rent increase as required, until an order setting the maximum rent for the rental unit takes effect, the landlord may charge and collect a rent up to the lesser of the amount that would be charged if the intended rent increase specified in the notice...would be charged if the maximum rent were increased by the guideline." What the hell does this mean? Is there anybody in here who can explain that to me?

Mr Turnbull: Absolutely not.

Mr Barratt: How on earth a person whose English is not perfect can figure this out, let alone English-speaking

people, I mean, it is just ridiculous, the whole bloody thing.

Just inside the cover here it says: "A landlord can seek an increase above the guideline on any one or more of the following grounds," which are taxes, hydro, water or heating and certain capital expenses, if the roof is blown off or something like that. It says you can get an increase, but it does not say when you get it, two weeks or two years away.

Further down it says: "An increase awarded cannot exceed the guideline by more than 3 per cent in any year," which means if you really need 10%, the other 7% is spread along the line. But what about an interest-free loan? That is not mentioned. You cannot get it off the tenants, so who the hell is going to pay for this? The landlord, unless he can come up with some loan. You also eliminate legal fees and rent control consultants and bad debts, which is a major item. It has cost more than any repairs, like regular painting and stuff like that, broken taps, vandalism and the GST.

On the following page at the top it says: "A tenant may apply for a rent reduction on any one or more of the following grounds." I will just pick out one: "Inadequate maintenance of the complex as a whole or of a rental unit in it." Now what we are going to have is that some tenants will expect a holiday in maintenance, manicured lawns, etc and they will use this as a tool to get a reduction in the rent. In fact, I have already experienced this in a small claims court.

1430

At the bottom of that page, part III of the bill provides for a registry system, which we already have in existence. But anyway, why not a tenant registry so we can get an address, so we can get our back rent when they move out?

The next page is not numbered, but it is the next page. We have rent inspectors—as one person said, rent police; why not a tenant inspector? Landlords can call an inspector to inspect the damage to an apartment, and to inspect a rent ledger to prove that a tenant owes the rent. I really believe—and I have already mentioned this a couple of times at these meetings—we should have a damage deposit.

Now in the past, it has been claimed that landlords have been keeping the damage deposit for no reason, and at one of these meetings, I proposed to the Minister of Housing that we could eliminate that by getting a damage deposit and the Minister of Housing keep the money. Let them keep the money until the tenant moves out, and then if a landlord claims some damage, send an inspector to look at the property, and then make the deductions. I do not even want the money. Let them have it, and let them have the interest, at least it is some protection. It also protects the decent tenants who do not do any damage, because then you do not get an increase on phoney repairs.

The Ministry of Housing and the Landlord and Tenant Act create bad debts, and therefore should pay for the bad debts and provide legal aid and free service to process the rent increase applications, because we are not allowed to claim these things.

The Landlord and Tenant Act is worse than rent controls, and it should be run by the Ministry of Housing, not by the Attorney General.

Bill 121 is an evil document from cover to cover, and designed solely to bankrupt landlords just to get votes. Hitler did this to the Jews. He created laws to steal their property legally, then generally made their lives miserable so they would leave Germany. Throughout history there have been many bad laws. At one time it was lawful to own a human being.

You should scrap rent controls. We do not need them. There is no shortage of shelter in Ontario, and I believe our rental properties and owner-occupied properties are a terrific bargain compared to other countries. Tenants are free to move if they do not like their apartment. Thousands are overhoused. I know single people living in a 1,000-square-foot house. Two of the bedrooms are used for storage, and yet the house is rent controlled. Government-financed buildings have thousands of tenants who could well afford to move out and let poor people move in.

Bob Rae has finally said there must be more efficiency to social programs. Well the rent control program will burn up $100 million this year, I figure, but there is not a nickel for landlords. Millions upon millions are burned up to subsidize rents for people, to give them better shelter than thousands of people struggling to pay a mortgage, and you do not have a nickel for the landlords again, either.

The Ontario government has saved 600 jobs by shovelling in $247 million to a paper mill run by a Canadian paperworkers union at a cost of $41,166 per job, to save one job, and not a nickel for the landlords.

The Ontario Federation of Agriculture reports the federal government has set aside $1.3 billion for farmers in distress. There is an Ontario government relief program in place to help farmers pay for interest on their loans. Not a nickel for the landlords.

The vacancy rates—I have already said this, I will not go into that.

The Canadian Auto Workers Union are the highest-paid workers in the country, yet they build apartments with government money with 100% mortgage. In this area, they have 426 units with a further 994 to be built.

That is the end of my presentation, and I would just like to say again that there is no need for rent controls. You do not need a very, very expensive consultant to do this job, just put an ad in the paper and see how many people you get lined up for this dire shortage. There is no dire shortage.

The Chair: Thank you. We will try one question. Mr Lessard?

Mr Lessard: You have a newspaper with you, sir, and I have today's Windsor Star. It talks about somebody who is living down on the waterfront in some gutted building that is on the CN grounds, because he is really at the end of the line and he has no place to go. I would suggest to you that people are out there who need some affordable accommodations, and even though a lot of accommodations may be on the market, it is for people who really cannot afford it. If you follow your line of submission, you

do not like government being involved in subsidization of a lot of things, for farmers or for—

Mr Barratt: No, I did not say I did not like farmers getting help, they deserve help, but why do the landlords not get any help?

Ms Harrington: We do have programs for small landlords.

Mr Barratt: Well, I never got a bloody nickel, never got a nickel.

Mr Mahoney: It is almost at the point where, with some of the concerns that we are hearing, that they are better just left said. Let me just go back to the issue, I think you raised it, with regard to your rights. How are you going to react the first time somebody shows up at your office or your home or your apartment building and hands you an order that says they are coming in to seize your records?

Mr Barratt: To seize them or inspect them?

Mr Mahoney: No, seize them.

Mr Barratt: I would not like it. I would be quite happy to show it to them, but if it is the law that they can take them, I have no choice, do I?

Mr Mahoney: Well, that is what is in this bill, but you would be quite prepared to voluntarily provide records of your maintenance and that kind of thing?

Mr Barratt: Sure, yes. In fact I have asked the rent control office to send somebody out there, instead of the old legislation where we are sending out thousands of photocopies back and forth to Thunder Bay. My rent consultant fellow charged $325 for the photocopies, which he justified.

Mr Turnbull: Your presentation, as do all of the presentations, raised so many questions, and we have got such a small amount of time to speak about it.

When you were speaking, there were looks of incredulity among the government members, and there were some tenant groups nodding their heads violently in the back. By the same token, we have had tenant groups presenting, and we have had landlords nodding like crazy in the background.

We seem to have a problem in communicating this, that literally, landlords who have had 25% or 30% equity in a building, who have maybe bought it within the last five years, have seen all of their equity wiped out as a result of Bill 4. Notwithstanding this, they are also losing money in terms of cash loss, so not only do they not have capital appreciation, on the contrary, they have had their equity wiped out, and as well as that, they are losing money. Can you suggest anything to me that will help us in communicating this message to tenants groups and to the government, that this is the reality?

Mr Barratt: Naturally if I was a tenant, I probably would not be too happy to hear anything negative against tenants. That is common sense. You do not even need tenants to make a presentation, you know they want low rent. It is common sense. It is common sense that landlords want to make a profit, but we have the facts. In fact, you do not even need me to tell you, because it is public knowledge. You can go to any rent review office and look at the records.

At my last presentation, I had the records there for 1981, 1982 and 1983, and some people were there, maybe some people back here. I had the records put in writing by the ministry that in 1981, I think I made $2 on a 29-unit building. The following year I think I made about $3,000.

Mr Turnbull: Their reaction will be that you made a bad buy.

Mr Barratt: Vacancies, that is what they have created, and damage.

1440

MORE CUSTOM HOMES

The Chair: The next presenter, More Custom Homes, Maurice Baker.

Mr Baker: Before my time starts, I called Deborah Deller and she told me I had 20 minutes, and I wrote my brief for 20 minutes, so is it possible to carry through with that?

The Chair: No.

Mr Baker: My time is starting now. I will speak very briefly on my presentation and try to answer questions.

I am an architect. I am a builder-developer and I am now a landlord. I have been a landlord and a builder and developer since 1956, and I manage approximately 1,000 units in the city of Windsor.

The Ontario government has instituted a number of anti-business laws, of which Bill 121 is the most devastating to the private sector and the economy of Ontario. Ontario is experiencing a high rate of bankruptcies, closing and moving of industrial plants, closing of retail shops and a high vacancy rate of commercial space. The unemployment rate in Windsor is 13%. Virtually no private rental units have been built in the last 10 years, but the vacancy rate is 4% and rising. Now, I will not go over the police force because I think that we have had a lot of that.

Bill 121 is an agenda, clearly, for the nationalization of private rental units by control through legislation. Although this bill centres on the control of landlords, not a single control is listed on tenants' behaviour, responsibility, or payment of obligations. Yes, landlords are people, but also tenants are people. This bill is a clear signal that the government does not approve nor trust the private rental housing industry. It is evident from Bill 121 that the government lacks confidence in a free market rent structure and the rental industry's ability to maintain and repair their property. This type of legislation does not encourage private financing, nor does it encourage the vast contribution that the private industry, rental industry, has made to Ontario in the number, the quality and the variety of units that do exist. I always thought the most desirable units in every community I have ever visited were built by the private sector.

The most disastrous and limiting aspect of Bill 121 is the three per cent limitation on capital cost expenditure. As an example, the Ontario government recently granted a 30-year-old, 90-unit St. Joseph housing project $3.3 million for capital cost expenditures. I think that this is

wonderful, and I support it. This is $36,600 per unit. If a private developer had controlled this 90-unit housing project, Bill 121's limited increase of 3% for capital cost improvements would limit the expenditure to $108,000. If indeed $3.3 million is needed to increase the quality of housing in the St. Joseph housing project, then why does Bill 121 limit the private sector to a 3% increase of gross rentals for capital cost improvements if they are truly needed? Why is the private sector not allowed to limit, to be guided by the market value or rents of more realistic percentage?

Bill 121 is anti-business legislation, any way you look at it. It is determined to deteriorate and eventually lower the quality of the private rental industry.

An example of this disastrous 3% limit of Bill 121 in the private housing sector can be shown by three apartment buildings being offered for sale in this community. Building A is a 60-year-old building, three storeys high, 29 units, in an excellent neighbourhood. Six two-bedrooms now rent for an average of $360 a month; two bedrooms, $360 a month. What is affordable housing? Twenty-three one-bedrooms rent for an average of $300 a month. This building has never been to rent control. The St. Joseph project capital cost expenditure is $36,600. If the same quality of improvements were needed in building A that I just mentioned as in the St. Joseph project, it would take 66 years. Bill 121 makes building A unmarketable and unmanageable for the future. The ultimate end of this 29-unit building will be bankruptcy and complete abandonment.

Building B is a 10-storey building, a 137-unit-rise. It is 20 years old. It is located on Riverside Drive facing Lake St Clair and is in a good residential area. All the balconies face Lake St Clair. There is underground parking, a party room, exercise room and other amenities. Nine three-bedrooms in this building rent for $496 a piece, 59 two-bedrooms rent for $440, 50 one-bedrooms rent at $375 and 19 bachelors rent at $264. Without a doubt, that person living in a burned-out building cannot afford any of these rents because he does not have a job. What he needs is employment. He does not need lower rents. The lower rents are available for those who want them.

A 3% increase in rentals would allow a capital cost expenditure in this 137-unit building of $107,000 a year, or $781 a unit. It would therefore take 34 years for Bill 121 to allow an update of maintenance and replacement program to create a quality of housing equivalent to that which the St Joseph housing project will possibly get. As can be seen, this building also is not marketable. The end result will be to deteriorate the present private rental stock of at least 137 units which will have to be replaced by the public sector at a cost of $20 million or more in the future.

Government housing and non-profit housing in Windsor is being built at $100,000 per unit. That is a one-bedroom unit. In the Windsor area three-bedroom, private, individual homes are selling for an average of $110,000. It seems to me the government could be building private, individual three-bedroom homes for the same price they are getting their non-profit housing. In today's paper, and to his credit, Premier Rae said more efficiency is needed for social programs.

The Windsor Housing Authority in the city of Windsor rented space from me, 10,000 square feet. They manage 3,000 units. They have 60 employees that sit at desks. I manage 1,000 units. I have three employees. They were paying $150,000 a year rent. They moved out because they found newer, better quarters at a higher rate. So when we are talking about marketable rents, I think what we are really talking about is that private industry really has been more efficient than the government and the government, for some reason or other, would like private industry to create the marketable rents. I do not think marketable rents are the problem. I do not think that rent control is the problem. I do not know what it is like in Toronto but in this community the problem is employment. If people had jobs they could pay $200 a month, they could pay $250, they could pay $300.

I just came from my office and I have a woman—I think I should not mention her name. She has been living in our building since 1979. She has a one-bedroom apartment. She is paying $593 under rent control. There is now a three-bedroom available at $960. She wants to move to the three-bedroom apartment. This is a single, 50-year-old woman. What is affordable? That is really, truly the question. I think I will leave it at that and allow people to ask me questions.

Mr Tilson: Welcome to socialism.

Mr Baker: Well, Hitler promised everybody a Volkswagen and the people in Germany thought everybody really should have a Volkswagen. Why should some people drive a Mercedes when everybody can have a Volkswagen? We know what happened there.

Mr Tilson: We have a fair idea as to what capital improvements are needed to the housing stock in Toronto. We have had concrete restoration people and different builders come and tell us all about that. Can you tell us, in your experience, the age of the buildings on average in Windsor and the surrounding area and the need for capital improvements in this area?

Mr Baker: I manage 1,000 units. They were all built before 1976 and they go back to 1965. I have been to rent control on every one of those buildings for capital improvements and I would say I was against the rent controls in the past, but it certainly was a lot more fair than Bill 121. I would list at least 20 or 30 items that I would consider rent control and the rent control people would throw out 10 of them. So I was in a position where a building was 15 or 20 years old; under the past laws I was able to renovate the building with new refrigerators, ranges, of this order. Specifically—am I answering your question?

Mr Tilson: Yes.

1450

Mr Baker: There is no question that 3% does not cover capital costs. If you have a 137-unit building that is 10 storeys high and you have to replace the roof you are only allowed $107,000. The roof is going to be $150,000. You cannot replace one roof. If you took 137 refrigerators, they would amount to $75,000. So you might be able to replace the refrigerators under the 3%, but nothing else.

Mr Tilson: I would like you to elaborate somewhat—and I asked this question this morning; I think you were here—on the effect of the proliferation of non-profit housing units in the area. You did spend some time in your comments with respect to that, but specifically do you have any information as to the number of non-profit housing units, whether it be co-ops or whether it be—

The Chair: Very briefly.

Mr Tilson: In the same period of time that you gave for the private sector.

Mr Baker: No, I do not. The only thing I could tell you is that this is the Labour Community Service Centre non-profit seniors housing development and this brochure was sent out on January 1. They wanted $535 for a one-bedroom and $635 for a two-bedroom. The average of all my buildings, a one-bedroom rents for $550, $15 more than the Labour non-profit housing. My two-bedrooms rent for $650, which is also $15 more. So all I am saying to you is my housing is probably more marketable than non-profit senior citizen government projects are.

Ms Harrington: Thank you for your presentation. I quite enjoyed it.

Mr Baker: You are welcome. I am glad you appreciate it.

Ms Harrington: First of all, you started off with regard to the job losses in this community and I know that has been really a damaging thing in Windsor, plus all of Ontario. You have to agree that we have a recession, we have the free trade problems, we have the GST. It is all compounding on us this year. We have a whole restructuring of our manufacturing sector. Those jobs are going and they are not coming back. This is going to be the most difficult decision-making time for any government in Ontario—the next four years. Bob Rae, as you are saying right there in that article, is facing those kinds of problems and we know we have to make those tough decisions; exactly what you quoted him saying, more efficiency in social programs. We know we cannot raise taxes. We have to look for inefficiencies.

Mr Baker: Exactly. I could not agree with you more.

Ms Harrington: I want to also tell you that our new Minister of Housing said to me the quality of our buildings is one of her top priorities and she specifically mentioned the 20- to 30-year-old buildings that are facing a lot of major systems that need to be replaced. I also want to tell you that the whole marketing of rental housing in Ontario is something we want to see operate well and fairly, and you have given us various examples. We know 80% of landlords do not go to rent review. They operate these buildings, possibly this one you are mentioning on Riverside Drive, where the rents are low. Maybe they have not gone to rent review and that building is doing well. I am not sure about the state it is in or anything.

Mr Baker: But it will have to go to rent control from time to time.

Ms Harrington: Right.

Mr Baker: And they will be out of luck.

Ms Harrington: So we are not trying to fight you, we are trying to work with you, give you a fair profit in Ontario.

Mr Baker: Well, the answer is a two-tier system. There should be one for social housing and there should be one for private housing. Twenty per cent of my tenants go to Florida, they go to Arizona, they go to California. When I talk to them they say in their retirement they will stay in the United States. Why? Because taxes are low, number one. Number two—

The Chair: Thank you, sir. I have got to give these guys a chance. Mr Brown.

Mr Baker: I agree with everything you have said.

Mr Brown: You have raised some interesting points. What is your opinion of having public housing governed under exactly the same rules as the private sector? In other words, they would be subject to rent review or rent control or whatever on the same basis totally as the private sector is because, as you know, we see tremendous increases in their operating costs, etc which the taxpayer pays for.

Mr Baker: I think it is a complete necessity. There are only two instances I have come across where there were 80% increases in rent. One of them was the Windsor Housing. About two years ago they increased 80%. The other was one that MPP Lessard mentioned the other day; it was an 80% increase. The 80% increase by the Windsor Housing went from $200 to $360 and some people were evicted. The one that MPP Lessard mentioned went from $200 to $360, too; an 80% increase. An 80% increase is too much for anybody to bear at one level. There should be rent controls on government housing as well as private housing, but it should not stop there.

When we have a crisis, there should be price controls on food, there should be price controls on clothing, there should be price controls on transportation, there should be price controls on taxes, there should be price controls on hydro and there should be price controls on every item that we have as long as we have a crisis and we are going down. When we are going down, I think we should all go down together. I do not think it is fair for only the poor to suffer on this particular basis. So, I am for complete controls on everything.

Mr Mahoney: Just briefly, I think you can identify the problem: The parliamentary assistant referred to the minister's comment when the minister was quoted as saying that she was concerned about the quality of "our" buildings. They think they are "their" buildings even though they are yours, and they may wind up being their buildings. The statement was also made that they are trying to help.

Mr Abel: That is hair-splitting. That is nonsense.

Mr Mahoney: I hear platitudes and roses being tossed at your feet. Can you see anything in this legislation that is really trying to help you?

Mr Baker: No, I think everything is devastating. It is not only devastating for the rental industry, because the rental industry might survive through this. It is devastating to the base of industry in Ontario because if you do not have good housing, nobody is coming in from out of Ontario

or out of Canada if there is no housing. If all you have is social housing, the Japanese are not going to settle here; the Germans are not going to settle here; the Dutch are not going to settle here, and the Chinese from Hong Kong are not going to settle here. You need a base of good housing if you want to get industry.

The only one that can supply that is private housing and you do not need a $10-billion housing project, because private industry can finance their own housing. We put it on the tolls and we charge the taxes. Nobody gets a free lunch any longer and tenants do not get free rents; they pay for it. When they go to work, they pay taxes. They pay for every automobile they get. A perfect example is the automobile I drive. It is a Lincoln Continental and I am proud of it. It cost $45,000 in Canada; in the United States it is US$22,000. Now that is why people are leaving Ontario. That is why Detroit is a boom city right now and Windsor is a bust city.

The Chair: Thank you, Mr Baker.

Mr Abel: That is why there is no medicare, no proper social services in the States.

An hon member: Let's not get sick in the States.

Mr Abel: If you want to live in Detroit, go there.

Interjections.

The Chair: Mr Mammoliti, do you think all of this is out of order?

Mr Mammoliti: I think that you should have already said that they are out of order, yes.

The Chair: Thank you for your help.

Mr Mammoliti: I notice that my mike is not on.

The Chair: Mr Mammoliti is absolutely correct. I should have ruled all of these things out of order two and one half minutes ago.

Mr Mammoliti: If it were me, you would have.

WINDSOR AND DISTRICT CHAMBER OF COMMERCE

The Chair: The Windsor and District Chamber of Commerce. I would like the witnesses to please identify themselves for the record. We will be following the same procedures: 15 minutes, questions and answers.

Mr Jacques: I am Mark Jacques, executive director of the Windsor and District Chamber of Commerce and making our presentation, on behalf of the chamber, is Walter Muroff. I will let Mr Muroff proceed.

Mr Muroff: The introduction of rent control was a dramatic action which resulted in a dramatic reduction of rental units built by private enterprise for the residents of Ontario. It also completely stagnated the free market and stopped competition because rents are now raised by the government on an annualized basis. Can you hear me okay?

The Chair: Yes.

Mr Muroff: On November 28, 1990, amendments to the Residential Rent Regulation Act were tabled by the Minister of Housing, David Cooke. The moratorium established by the legislation provides that any order permitting a rental increase, which is to be effective after October 1, 1990, will not be enforceable. Therefore, any landlord who has performed major repairs or renovations, has made applications through the Residential Tenancy Commission and has obtained an order permitting rental increases which were to take effect October 1, 1990, will not be able to enforce such an order.

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The moratorium also denies landlords the right to apply for any increase of rent in the event that such request for increases is as a result of any costs related to capital improvements or major repairs such as installation of a new elevator or repair of a roof. Government is not allowing any economic incentive whatsoever for the improvement of living conditions for tenants. In addition, the landlords will not be able to apply for any increase for financial or economic loss. In effect, then, landlords are being forced to subsidize the rents of their tenants.

The landlord will still be able to apply for an increase based on an increase in taxes, interest on mortgages or higher utility costs.

It may be argued that since housing is a basic necessity, the moratorium will benefit tenants in Ontario. It is our opinion that any benefit to the tenants will be short lived in that there will likely be no extraordinary increase in rent. In fact, tenants in the Toronto area are now beginning to realize that rent controls may not be in their best interest.

On a long-term basis, the legislation will achieve the following negative results: discouraging developers from building rental accommodations; discouraging landlords from doing repairs or maintenance; discouraging financial institutions from making loans to finance the construction and renovation of rental accommodation—I might add, putting some of those loans at present in jeopardy, which in turn could hurt the institutions; discouraging the normal progression from renting to owning—we should be encouraging home ownership in the province; encouraging landlords with a small number of units, particularly those not subject to the Rental Housing Protection Act, to convert from residential rental to any other available use; discouraging employment for those workers in the construction and renovation field; a basic supply-demand analysis of the rental market will show that legislating prices below market levels almost always makes the economy work less efficiently; relationships between landlords and tenants are deteriorating rapidly.

The amendments will cause personal hardship to many small or independent landlords where savings are tied up in the properties and who are using the income as a basis for their retirement planning, which is a large part of our population.

All of the above will have the effect of reducing the number of rental units available and causing the units which remain available to deteriorate.

It may also be argued that since we are in recessionary period, tenants will benefit from more stable increases in rent. The counterargument for this is that during a recessionary period, upward pressure on prices would be reduced and therefore this legislation is not necessary. In addition, landlords will and have cancelled a number of repair and improvement programs. Cancellation of such

programs will seriously affect contractors and small businesses that rely on this type of work for their livelihood. The reduction in this type of work will have a trickle-down effect of stopping landlords from implementing such programs.

Our primary recommendation is to have the legislation revoked. However, as this is unlikely to occur, in order to alleviate some of the problems which we have highlighted above, we feel that the following recommendations will assist to that end.

The new legislation should not apply to any approved applications for rent increase no matter when the effective date of the order is, and any application which is currently in the system should be permitted to proceed.

The moratorium should apply only to new applications commenced after November 28, 1990, the date of tabling of the legislation, and not October 1, 1990.

The landlord should be able to apply for an increase in rent in the event that the landlord suffers any increased costs as a result of provincial legislation.

The landlord should be able to apply for an increase for increased costs related to renovations or repairs which are necessary to achieve both energy efficiency and upgrade his or her property.

The length of the moratorium should be shortened and the government should undertake to report to the public with the result of the public inquiry no later than November 28, 1991.

Small landlords, those with less than seven units in total, should be exempt from legislation.

Government subsidization should be available to those tenants who require assistance, and we feel strongly that rent supplements are probably one of the most economical solutions to the plight of the rental crisis.

Further, the imposition of severe rent controls on existing properties that were built or acquired by individuals planning for future retirement and financial security amounts to a virtual confiscation of their assets.

Where the authors of this report recognize the necessity of providing affordable housing for all citizens, it is felt that many of the recommendations presented by the government could in the long run be counterproductive and do more harm to the average Ontario citizen than the good for which they were intended. Thank you for your time.

Mr Mahoney: I have a question that—before I get to it, let me just ask you about recommendation 6 with regard to small landlords being exempt. Would it make more sense, if you are going to grant exemptions, to do it by the age of the building rather than the size? Assuming that any of your suggested amendments were going to be taken seriously by the government, which I must tell you I do not hold out a lot of hope for, if it did, would it not make more sense to do it on the basis of when the building was built, or something less arbitrary perhaps than the size of it?

Mr Muroff: It is a good point. It would make sense.

Mr Mahoney: One of the things that has not really come up here, I noticed in the advertisement that we were given by an earlier presenter that there are a number of bonuses being offered: half a month's free rent, a month, two months, whatever. People are offering upgraded quality carpeting. They are offering fridges, stoves, washers, dryers, various things. Would it not make sense for the landlord community to pull in their horns and all of that kind of thing and say to tenants, "We're going to rent you the basic shell for X amount of dollars, and if you want a fridge, go buy it; if you want a stove, go buy it"? Is there a threat that the landlord community, as a result of the fact that they cannot get increases, for example, to buy new appliances for an apartment building, will simply not provide that level of service?

Mr Muroff: That would be a function of the marketplace. It is an interesting concept, but the reality of it is the fact that the tenant is going to have to have the capital investment available to move into an apartment, which may prove difficult.

Mr Mahoney: Which they would not have. But my concern is the potential for a degrading of the quality of services. While I see landlords saying, "It can't be done," are you then going to—if it cannot be done, then what you are in essence saying is that you are going to eat this legislation, you are going to continue to provide the level of accommodation that you are providing, and how can you do that without allowing the company to go broke?

Mr Muroff: On the contrary, you may see a situation developing, as has happened in the South Bronx, where the buildings just run down and eventually become abandoned. That is the other danger.

Mr Mahoney: How do you address the concept of the rent police, the ability to go in and seize records if you are a landlord? Contrary to a statement made earlier, they do have to get a search warrant, but that is not terribly difficult to get if there is legislation backing it up. But they do not have to give any substantive notice. They can simply show up and knock on your door and make you salute. Has the chamber discussed that?

Mr Jacques: No, I would suggest we have not investigated that position.

Mr Turnbull: On the question you raise about rent supplements to those most in need, the Conservative Party has consistently advocated this as a more effective and more reasonable approach which is sensitive to the people in need. It is claimed by the government that it could not afford it, yet it determined that landlords should afford to subsidize people.

You mentioned non-profit co-op housing, I believe. Non-profit co-op housing is typically costing, on average across the province, about $1,800 a month, whereas they are typically renting out those units which are not rent geared to income, the ones that they call market rent, at around $900 a month as compared with the $1,800 it is costing.

In fact, there is one of the members here today who is from the NDP who is living in one of these subsidized, so-called market rent situations. They are getting an MPP's salary, plus they are probably getting a parliamentary assistant's salary, and they are living in this subsidized housing.

Would it not be more reasonable for us to apply the cost of the money we are spending on non-profit co-ops to rent supplements for those most in need?

1510

Mr Muroff: No question about it, Mr Turnbull. Your examples are well taken. Off the top of my head, I would say the vacancy rate in Windsor, the CMHC rate is about 550 units, which is roughly 5%. I would say they miss about 20% that they do not count in smaller units. We have probably got about 800 vacant units. There are buildings that are renting for the $550 and $650 range where people could not afford them. If they gave a rent supplement of even $100 or $200, it would be much less than putting them in non-profit housing that is costing in excess of $900.

Mr Turnbull: In a broader sense, how does the chamber view the message that we send out to investors, say, in industrial plants from overseas, with a government which effectively is confiscating private ownership of apartment buildings by reducing 30% of the value of the buildings?

Mr Muroff: I would say it would not encourage them to invest in plants and create jobs. It has to have a psychological spillover effect.

Mr Turnbull: We are having difficulty in getting the other side to believe that this is reality. When we talk about reduction in the value of buildings in the order of 30% as a result of Bill 4 and now this legislation, the knee-jerk answer is, "Oh, all of the market has gone down by that." However, they ignore the fact that this is a controlled market. When you are talking about office buildings which go down by that amount, it is because you have a vacancy rate and you have an income deficiency as a result of your vacancy rate. When you have got a controlled market, it is a legislated reduction, and it seems from Bob Rae's discussions before the election that he wants to depress the rents.

The Vice-Chair: Question.

Mr Turnbull: Do you think that this is part of an underground approach to Bob Rae's agenda of forcing down the value of buildings and then taking them over at much reduced prices?

Mr Muroff: I would not want to comment on our Premier's agenda because he is our Premier, but I just hope that is not so. It could appear that way. I hope it is wrong.

I might point out that the biggest asset that the average person has, and the average person in this city is a Chrysler or GM worker, is his home. At the end of the day, when they are through working, their home is worth between $100,000 and $150,000, and that is the biggest single asset they have. We should be encouraging home ownership and the increase in property values, which funnels down to the average person, and it is the average person who is a substantial real estate owner in this province, particularly in Windsor.

Mr Mammoliti: I would like to address a couple of concerns, first, your concern on rent control and what that does to supply. I would like to just refer you to British Columbia, where they do not have any rent control. When we talk about the supply, the rents are still very high in British Columbia. I would like you to comment on that. I would also like you to let us know what you think a fair long-term-profit return would be for a landlord. A figure would certainly be appropriate at this time.

Mr Muroff: In response to the BC situation, they were the first to introduce rent control, and the result of that, I think in the late 1970s, was the creation of a tremendous shortage and they gently eased out of it to level out the market. I do not think it is as severe as you are pointing out. I am not that familiar with it at this point.

As far as production is concerned, I have statistics in Ontario. From about 1968 to 1976, we were creating about 40,000 apartment units annually in the province. When rent control came in, in 1976, we dropped to 26,000. By 1982 we were down to 14,000 units. That has to indicate that rent control had to have impacted the market vis-à-vis dropping construction. We started a climb in the mid-1980s, but a lot of that production, which is in the 20s and 30s, was as a result of non-profit housing being produced, not from the private industry.

Mr Mammoliti: Sir, very quickly, in response to my second question, what is a fair return?

Mr Muroff: Fair return would be based on—if you are investing in a building, you have alternate forms of investment. You have GICs, you have T-bills. Your return is guided by relative returns in the marketplace at a given point in time. Today, I would say a reasonable return would be somewhere between 8% and 12% on your equity. That would be determined by the inflationary pattern, if inflation is falling or rising. You cannot just take a figure today and stick with it; it has to be an adjusted figure depending on the marketplace.

Ms Harrington: Thank you for your brief. It is similar to the one we received in London from the chamber of commerce there, and I am going back to my city of Niagara Falls—

Mr Muroff: Are you inferring we have orchestrated something?

Ms Harrington: I am just looking forward to—

Mr Jacques: We sure are giving a consistent message.

Ms Harrington: Sure. Going back to Niagara Falls and speaking to my own chamber of commerce, of which I sat on the executive for a year or two, I am finding out if they agree with the same things.

You talk about various things here that I wanted to comment on; first of all, the relationship between landlords and tenants. We feel that is very important, and we want that to improve. We do not want it to deteriorate. We need landlords and tenants to co-operate together—

The Vice-Chair: A question?

Ms Harrington: —to plan what repairs should be done in the long term, because to live within the guideline and/or the 3% cap, one has to plan carefully the repairs that have to be made, and I would think with the tenants.

The Vice-Chair: A question?

Ms Harrington: My question to you is, we feel the whole reason for this bill is stability for tenants—

The Vice-Chair: Question.

Ms Harrington: Do you feel—I feel—

Interjections.

Ms Harrington: —that stability is also important for landlords. Do you think landlords want to have stability in their tenants, just as much as tenants want to stay there?

Mr Tilson: Don't ask her to repeat the question.

The Vice-Chair: I think that was a question.

Mr Muroff: I would say absolutely, as a responsible tenant. First of all, I am also on the housing advisory committee in the city and I am quite familiar with the housing market. Personally, my living is made in mortgage financing and apartment financing, and responsible landlords want responsible tenants. There is no question about it. One complements the other.

Ms Harrington: I also want to ask you about subsidies.

The Vice-Chair: At some later time. Thank you, gentlemen. We appreciate your appearing before us today.

The next presentation will be made by Don Ross of the Municipal Retirees Organization of Ontario. Mr Ross?

Mr Mammoliti: You did very well, Mr Chairman.

The Vice-Chair: I was too nice to you guys.

MUNICIPAL RETIREES ORGANIZATION OF ONTARIO

Mr Ross: Mr Will Ferguson told us not long ago that if we could not make our point in 20 minutes, we did not know what we were talking about, so I will try to do it in 15.

The Vice-Chair: That will prove that you know everything about what you are talking about. Thank you, Mr Ross. As you know, you have the 15 minutes. If you would introduce yourself for the purposes of our official recording system, that would be appreciated.

Mr Ross: My name is Don Ross. I am the vice-president of the Municipal Retirees Organization of Ontario. We represent the 45,000 retired municipal workers in this province.

I sat back here feeling that I was in the wrong room because, frankly, we intend to speak in favour of the bill.

In August 1990, we had a letter campaign about some improvements we wanted in our pension plan. We had a great response from our membership, but in addition to the problems with our pension, a number of other things came to light: problems with taxes, problems with rents. We heard horror stories—people in their retirement having to move to cheaper apartments, having to move from the upper floors to the lower floors so they could remain in the same building, people having to move from places they had lived in for 15 and 20 years into subsidized apartments.

Our 45,000 retirees are the tip of the iceberg. There are 210,000 retired persons aged 65 and over in this province who live in rented accommodation. This is not subsidized. How many persons are retired under the age of 65 and living in rental units, we have no idea.

1520

Most people, when they retire, plan for it. They want affordable housing. But unfortunately, 93% of the pensions in this country are not indexed. Usually, when they retire, they have some small savings, their company pension if there is one, old age security, sometimes CPP. The Income Tax Act, of course, has chewed a hole in a lot of the savings of these people, and the rent spiral over the last few years has been devastating to a lot of these people.

We have heard and read the horror stories in the papers of increases up to 40% and over. I was shocked to find out that the rent review officers in 1988 granted increases averaging 10.5%. The Rent Review Hearings Board granted increases averaging 11.5%. This was at a time when the guideline said 4.6%.

There is no doubt that this government and the previous government felt that some form of rent control was necessary. My personal belief is that the former act was probably intended and started out as a good piece of legislation. Unfortunately, over the years, over time, the bureaucrats found loopholes until the former legislation got to look like Swiss cheese.

We have heard people say we should throw out rent control. We feel that Bill 121 deals fairly with the subject. There are three areas of concern that we would like to touch on:

Subsection 14(2) deals with extraordinary increases in expenses. We do not feel this should be allowed to be expanded upon. We do not think there should be a discretionary area grow in here. Extraordinary expenses should be as are outlined in the bill. Under the former act, we saw instances where in the end even custodians' wages and rent were classed as "extraordinary expenses."

Under capital expenses, we feel that allowances made in the bill for money to be used for maintenance of the buildings—we feel that neglect of a building should not be any excuse for a grant in capital expenses.

On the subject of financing costs, we do not feel this should be allowed. Too often under the former act, people bought buildings knowing full well when they went in that their operating costs and mortgage costs would not be covered by the rents, but with the full knowledge that all they had to do was apply and they would be granted relief. As far as we are concerned, it was just an excuse to up their rents and make the buildings more saleable.

We prepared a brief, which you have been given. I chose not to read it to you. I trust you will read it when you have more time. I just wanted to make a few comments and to bring to your attention that our 45,000 pensioners are concerned about this issue. Thank you very much for your time.

Ms Harrington: I think one thing we have learned in our travels is that seniors in particular feel rather vulnerable and wonder if this act will protect them enough. I have certainly heard of people in the rest and retirement homes who are very concerned about what will happen with the increases in accommodation charges in that sector.

We certainly believe that seniors deserve as much protection as everyone else. You have made a few proposals here. Obviously, I have not read it over yet, but is there anything else directed specifically at the act that you would like to let me know that seniors are most concerned about? I have a list of the concerns and actual changes, amendments to the act that we are looking at.

Mr Ross: Basically, no, just the things that I have mentioned. They are outlined in a little more detail in the brief.

Ms Harrington: I notice that one address here was in Scarborough. Are you from the Windsor area or do you live here?

Mr Ross: My home address is in Corunna, just outside Sarnia.

Ms Harrington: Oh, I see.

Mr Ross: The office for our organization—we share office space with the CUPE Ontario division in Scarborough.

Ms Harrington: Okay.

Mr Ross: And no, we are not a CUPE organization. I myself am a retired police officer.

Ms Harrington: I see. Do seniors have any more concern with the cap of 3% than the rest of the tenants of Ontario?

Mr Ross: They are more concerned because seniors over the age of 65 pay the highest ratio of income to rent. It is a figure here of 21.6%. So any increases in rental accommodation have a disproportionate effect on these people as compared to people who are still in the workforce and can demand or try to demand increases in line with the cost of living.

Ms Harrington: Right. Of course you understand that the balancing we are trying to do is to deal with the reality of housing in Ontario, and that there is aging housing stock and a lot of major upgrades have to be done in these older buildings, even 20 years old. That is why the 3% over the guideline is there. Within the guideline, they should be able to do capital repairs on a planned basis in consultation with the tenants. Ideally speaking, this is the way it should be done.

The problem, of course, is that Ontario municipal taxes are going up and so are heat and hydro and the rest of it. That is why, of course, we have the guideline pegged into inflation. What we are trying to do is get a viable system so people who cannot get an increase of 8% in their income every year still have the stability of being able to live in their homes. The end result is that if you do not get an increase of at least inflation or more, then the percentage of income that you are paying on your accommodation is going to go up every year.

Mr Ross: Well, the act as it is outlined gives the tenant something he can count on, something he can plan on in the years ahead, whereas the way the former act wound up, they could not. They were suddenly dumped with 12% and 15% increases two years in a row. It was disastrous.

Ms Harrington: As I mentioned to the previous person, stability is the key to this legislation.

Mr Brown: I am most familiar with downtown Toronto—and Sarnia, for that matter, being a Sarnian for about 20 years of my life. But the issue I want to talk about is the pension issue. You noted that only 7% of Ontarians have indexed pensions.

Mr Ross: Only 7% of Canadians.

Mr Brown: Of Canadians. Well, I have extrapolated it. Maybe our percentage is higher; I am not sure. But the point is that we have some grave difficulties in a number of the pension plans, particularly private pension plans in this province, being underfunded. I personally believe in fully funded pensions. I think anything else is just hocus-pocus. And there is no way that somebody who is to receive a pension knows whether or not the money will actually be there when it is their turn to get the pension. This is a real concern to the government of Ontario because the government of Ontario guarantees these pension plans and it could cost us billions.

I know that is not particularly your problem here, but what I am wondering is, your pension plan, obviously you study where they make investments and what they do with their money; it is obviously of interest to a group of retirees where their pension moneys are invested. Do you know if your pension plan invests in residential accommodation, in that sector?

Mr Ross: First of all, our pension is a fully funded plan.

Mr Brown: I am aware of that, but I was—

Mr Ross: Some others here might think we are just sponging off the taxpayer, but our plan is a fully funded plan. The pension board made significant investments in real estate in the last few years, in the billions of dollars. Some of them did include apartment complexes. They also included a lot of commercial buildings in the major cities across Canada.

Mr Brown: I guess what I am trying to get at is, is that turning out to be appropriate to your fully funded pension plan? Are these seen as good investments by the pension plan, or are you aware of the facts? The reason I am asking is that we have had a number of presenters come here and say, "Look, these are not good investments in Ontario." I am trying to come at it from the other side of the question and you seem to be on both sides of it here.

1530

Mr Ross: As I said, our board had made investments of $2 billion or $3 billion in real estate in the last couple of years and I cannot remember what the amount was for 1990 and 1989. They had a return on investment of 15%. It is one of the fastest-growing pension plans in North America. So, yes, I certainly approve of their investment.

Mr Brown: It looks good to you. Thank you.

Mr Tilson: You have indicated at the outset that you and your organization support the bill. I come from a riding just northwest of Toronto, and pensioners in my riding say to me they cannot afford any increases. They are very concerned with the increasing lack of capital improvements because landlords are saying they do not have the funds to complete the repairs or the new roofs, replace boilers or to even put carpeting down on the various floors in the hallways and stairs. But they cannot afford any increases.

This legislation, whether an increase is warranted or not, allows for increases when in fact it may well be that from year to year there may not be any need for any

increases or in fact there should be decreases. But this legislation is no different than the last legislation; it allows for automatic increases. So I must say I am surprised at your position when I have spoken to pensioners who simply do not accept this type of legislation. Could you comment on that.

Mr Ross: I can only tell you what our board has discussed. As far as the increases are concerned, to be realistic I would expect if people own apartment buildings they would expect to get increases whenever they could.

Mr Tilson: Let's talk about that. What sort of increase should an owner of a building get? What sort of rate of return each year should an owner get compared to the interest rates in a bank account, a bond or RRSPs?

Mr Ross: I have no idea.

Mr Tilson: Should they receive any increase?

Mr Ross: We can live with this bill as it is drafted and with the increases they have outlined.

Mr Tilson: What increases are those, because the landlords are saying they are losing, they are not getting any increases. In fact, the values of their buildings are depreciating; they cannot afford to make the capital improvements; they cannot sell their buildings, they cannot do anything with it. Their buildings are becoming vacant and falling apart because the legislation does not allow for the capital improvements. That is what they are telling us. Now, someone is not telling the truth. I cannot believe when landlords' associations and landlords come forward and tell us this all across the province from Sudbury to London to Hamilton to Toronto to Windsor, even just before you; you heard the individual before you make some comments.

Mr Ross: I heard several people make comments.

Mr Tilson: What is your response to that?

Mr Ross: I do not know, I am not a landlord and I do not intend to be.

Mr Tilson: let me ask about another area. You referred to subsection 14(2) which deals with operating costs of municipal taxes, hydro and those sorts of expenses, and they are listed. One of the criticisms that has come to us is that if you have a particular municipality that may increase its taxes a certain amount—and this legislation does allow for that increase—but if it is over a certain amount it is capped. Therefore the landlord must bear that additional cost, whether in municipal taxes, heating or hydro. Unbelievable increases in hydro have been predicted. Where is the money going to come from?

Mr Ross: I have no idea.

The Chair: Thank you for your presentation, sir.

OBOLUS LTD

The Chair: Mr Ed Meyer. We will be following the same procedure, 15 minutes, and you can identify yourself for our Hansard recording and/or any organization you are representing.

Mr Meyer: My name is Ed Meyer and I am the president of Obolus Ltd and a past president of the Sun Parlour Income Property Association. I want to thank you today for the opportunity to speak before you and indicate some of my opinions.

The priorities and stated direction of the Ministry of Housing concerning Ontario's housing policy are, in the opinion of many, fundamental and sound. A healthy affordable housing stock is without question the cornerstone and basic requirement for any stable and progressive society.

Bill 121, the permanent rent control legislation introduced by the province on June 6 of this year, fundamentally deals with many new proactive protections and safeguards of Ontario tenants' affordable rents charged by Ontario landlords and healthy housing stock maintenance provided by Ontario landlords.

As with any legislation, mandatory controls on Ontario's free marketplace by the government should be instituted with reasonable care and execution and fairness if they are to influence the marketplace in a positive way for social benefit. Any deviation from this basic principle, regardless of the good intentions, can and has historically resulted in destabilizing and negative conditions.

Excessive rent increases will reduce the affordability of rents. Bill 121 addresses the historically excessive increases in the rents Ontario tenants are charged. In fact, the Residential Rental Standards Board of Ontario, in a report dated April 4, 1991, on the Ministry of Housing consultation paper, stated on page 10 that, "The cumulative increase of the Rent Guideline, since 1975, is 48% below the CPI for Ontario." Surely, in no one's definition could this be interpreted as excessive. In fact, the actual financial return of Ontario landlords has significantly eroded over the previous 17 years.

Ontario landlords who charge rents in excess of that required for a fair return on their investment will reduce the affordability of rents. Statistics from Revenue Canada indicate that 355,000 individuals in Ontario filed statements of rental income in 1988 with an average return of only $173 per year for each rental property. This cannot be interpreted as excessive profit or support the gouging myth of landlords.

If Ontario landlords as a whole are therefore not guilty of excessive rent increases or realizing excessive rental profits at the expense of Ontario tenants, then the fundamentally new proactive and intensive rent control guidelines introduced in Bill 121 are, at best, redundant to the existing rent review legislation. At worst, they may destabilize and deteriorate the very healthy affordable housing stock Bill 121 is supposed to preserve.

For buildings of more than six units, the annual guideline increase will now be based on 50% of inflation rather than 66%, resulting in a 20% decrease in cash flow which will now also have to fund common area and replacement costs such as fridges and stoves.

Increases over the guideline will be limited to 3% over two years for large buildings or three years for small buildings. To qualify for the 3%, the landlord actually has to pay 5% per year to recover 60 cents on the dollar spent. The same 3% cap must also cover operating expense increases from such items as taxes and utilities.

Landlords who have completed large capital improvements in good faith subject to the existing rent review

guidelines received a 0% cap under Bill 4 and now will be subject to the same 3% allowance, regardless of the size of capital expenditure spent.

Bill 121 proposes to penalize any landlord who does not comply with a work order within 30 days, and comply means to complete the work in 30 days regardless of the size of the work, if there is a labour strike or if there is bad weather. Any trivial work order such as a missing knob on a cabinet can cause an entire building rent guideline increase to be challenged. Major abuse of this enforcement is available to the very few tenants who would vandalize a building to roll back rent increases.

1540

Legal maximum rents can now also be rolled back on the vague grounds of inadequate maintenance. Entire building maximum rents can now be challenged by a single tenant on very minor and very subjective complaints such as common areas not being regularly cleaned. Any and all increases could be stayed until the ministry decides on the complaint. This type of uncertainty makes it impossible to properly administer the landlord's decisions with respect to maintenance, financing and all general business.

For most landlords, mortgage payments are the largest single expense category. In Bill 121, even though a mortgage interest increase is beyond the landlord's control, no pass-through of higher mortgage interest costs is allowed. This is certain to result in bankruptcies and financial havoc in the industry.

By permanently eliminating any consideration of financial loss, Bill 121 will reduce the value of every apartment building in Ontario by 25% to 40%. For recent purchasers this will mean the expropriation of all equity and the possible loss of the building. Long-time holders will see their equity greatly eroded, destroying the retirement savings plans of many small landlords.

For the past five years the rent registry has essentially been inoperative due to the inability of the bureaucracy to cope with the task of registering and providing notice for the limited number of large buildings in Ontario. Bill 121 will now require that thousands more buildings which contain four to six units will also be required to register.

For the first time in the history of rent review, officials will now have the power to search any landlord's premises and seize records, inspect and photograph evidence. The sweeping powers given to the rent policy in Bill 121 are truly frightening and totally un-Canadian.

If all this is not enough, definitions for terms like "neglect" and "inadequate maintenance" are not established in the bill. Changes to the rent control index, formerly the residential complex cost index, RCCI, have been indicated but will remain unknown until the regulations are actually released.

The majority of landlords in Ontario are ordinary, average Canadians who own single-unit, duplex or fourplex housing tenements. Not surprisingly, and not addressed in past rent control legislation, current or proposed housing policy, is the fact that the greater majority of all housing stock in Ontario is actually supplied by these small fourplex-or-less landlords. And who are these people? Generally they are simple, decent folks, including many who are hardworking, blue-collar union workers, retired people on fixed incomes, and young families augmenting their modest incomes or reducing their own housing costs by purchasing or building a duplex house, renting out a second unit or renovating their unused basements or attics.

Fundamentally, these small landlords simply do not have the resources or even access to the continually expensive expert accountants or consultants required to understand, administer and reasonably comply with Bill 121. How can these small landlords prosper and continue to supply affordable rental housing for Ontario within the increasingly complex rent control guidelines they can never hope to understand? Often large landlords and governments naturally accept their economically sound access to expert lawyers, accountants and consultants as a fundamental resource. In reality, for the small landlord, the average Canadian, this fundamental resource will never be available to them nor will they ever be comfortable understanding the complex advice they would be given.

Mr Lessard: Thank you very much for your presentation, Mr Meyer. It is good to see you here today. You said in your closing submission that something that was not addressed in past rent control legislation was the fact that a great majority of rental housing stock is owned by persons who were what you might refer to as small landlords. What do you mean by this issue not being addressed?

Mr Meyer: Fundamentally, as past president of Sun Parlour Income Properties Association in Windsor, the majority of our membership are vis-à-vis small landlords, the people who immigrated here and bought rental accommodation for retirement plans or the union worker who has a duplex or a fourplex. These people do not have an especially high degree of education or understanding of very complex concepts and, frankly, Bill 121 and the previous rent regulation bills were far too complex and too comprehensive for these people to even remotely understand what it meant to be a landlord and what it meant to properly administer their units. Consequently, because of that inability to cope with the legislation, they were at a loss to maintain their buildings properly.

Mr Lessard: You realize, though, that there is a distinction made in this legislation between smaller-unit and larger-unit buildings.

Mr Meyer: That is absolutely correct for the first time. I guess what I am suggesting is that the majority of small landlords will never know that or be able to make use of it.

Mr Lessard: What sort of addressing of the issue would you like to see? You say to make it less complicated, that is one of your submissions, but how do you see us trying to go about that?

Mr Meyer: I think personally that there is an influence in government thinking that better legislation means more legislation. I do not think that is necessarily true for the rental income stock in Ontario. Personally, other forms of ensuring affordable housing to Ontario tenants, which would be much easier to administer, would be a free market rental situation where the truly needy could be directly targeted and supplemented. In today's marketplace you

have public housing that is charging tenants 30% of their income, but in the private housing stock the majority of people are paying less than 15% or 10%. That is an inadequacy which is causing a lot of problems. If that could be addressed, I would suggest it would be much more accessible for the majority of people to build affordable housing and to maintain it for the benefit of all Ontarians, whether it be taxpayers, tenants or so forth.

Mr Brown: You have raised a number of good points. I appreciate your discussion, particularly of the small landlords' difficulties with this legislation. We have been concerned a fair bit with the two different guidelines, depending on the size of the building, and have seen absolutely no rationale anywhere for why a small building is more expensive or less expensive or whatever than a large building. There appears to be no rationale for that particular distinction. If there had to be a distinction, in your opinion should it be more on the age of the building than on the size of the building?

Mr Meyer: Age is a very important consideration in determining the costs of a building. Whether you have large buildings or small buildings, the age directly determines the capital expenditures that are required to maintain a building. I am a consulting engineer by profession. Buildings require maintenance to be maintained. There is no question about that. If you have a two-storey building that has a roof or a 25-storey building that has a roof, there is a certain fixed cost in replacing that roof. The fixed costs of management, maintenance and so forth are traditionally spread among fewer units in a smaller building versus a larger building. Again, to reiterate, the smaller buildings are generally owned by less sophisticated and less informed organizations or people who physically cannot maintain their buildings with respect to this legislation. It is just physically impossible for them to do so.

I would suggest, in my opinion, that if there is to be an exception between the two, it may be more equitable to use the number of units versus age, although I think age, like you suggest, is a very important consideration as well which has to be addressed.

Mr Tilson: I congratulate you on the excellent summary you have given of many of the concerns that have certainly been raised throughout, although I would like you to spend some time on the rent police issue that has been raised, which certainly our party finds shocking. Considering the wide powers that inspectors have, they can literally come in and seize anything. They could seize your diary. The word is "anything." They can inquire into any matters. They can do anything. They can take photographs of absolutely anything. It is unbelievable, and I would like you to comment on that.

1550

Mr Meyer: Basically, it would be expected that the legislation addresses problems within the industry. If I can reiterate my opening paragraphs, since 1975 when rent controls were introduced, the cost-of-living allowance has only realized 49% in the rent increases. There does not appear to be a problem with gouging landlords taking unfair profits from Ontario tenants. It does not appear to exist if you look at the data. So I do not personally think it is justifiable to take such a very drastic and significant step. I think it is unwarranted at best, and at worst, it is really not something that this country has seen before and it probably should be avoided at all cost.

Mr Turnbull: I have no questions. I just congratulate you on your excellent presentation and the summary you have given, which I would hope the government would pay some attention to. Unfortunately, I have no real belief that that will happen.

The Chair: Thank you for your presentation.

That concludes the list of presenters for the day. I understand that Mr Abel has a motion he would like to present.

Mr Abel: Since the topic of rent control in British Columbia has come up several times, and I think it is a concern of all three parties, I thought it would be advantageous to have somebody come who is an expert in the field. Therefore, my motion would read that Mr David Hulchanski, a professor at the University of Toronto, be invited to share with this committee his expertise on British Columbia rent control.

The Chair: Mr Abel moves that Mr David Hulchanski, professor at the University of Toronto, be invited to share with this committee his expertise on British Columbia rent control. Any further discussion by yourself, Mr Abel, at this time?

Mr Abel: We feel that Mr Hulchanski is a very qualified person to come. As I said, I think it would be advantageous to have somebody with his expertise to answer questions that have come up in the past, the concerns and comments that have come up by some of the presenters. He was the director of the University of British Columbia centre for human settlement and taught housing and community planning at UBC's school of community and regional planning. He has a PhD in urban and regional planning at the University of Toronto and he has a BA in political science and history, so I feel he is more than qualified to answer our concerns.

Mr Brown: I think we would have no objection to asking that this person come before the committee. I think he would bring us some very valuable information. But I will say that I do not think we could accede to this request unless other rent experts from other jurisdictions, which this committee has over its lifetime been denied access to hear—I can think off the top of my head of four people who are experts in jurisdictions other than Ontario, and the argument from the government on those occasions was, "Well, they're from other jurisdictions and we don't need to know."

I would like to hear from him. However, I do not really understand why we would have him come if we would not have the other experts that the opposition had requested appear at various times. Therefore, I am going to have a problem with this. I am going to have a problem with the fact that the government did not see fit to allow us to have the Ontario Housing Corp come and see us, which, as we have heard from both tenant groups and landlords, would have some really valuable information with regard to maintenance on buildings, real costs on buildings, and yet

the government denied that. So unless the government is willing to have other experts, then I think we are in a position where we will have a very difficult time supporting this particular motion.

Mr Tilson: I am not going to echo what Mr Brown stated, but obviously we would take the same position as Mr Brown. It is as if the government is saying, "We won't hear your people but we'll hear our people." I think that obviously the whole subject of rent control is worthy to be discussed from all of the provinces. I am fairly confident that the research people prepared information from all of the provinces and it might be useful to hear some elaboration on that, whether there is any update on that material. Why British Columbia? Why not other provinces?

Mr Turnbull put forward very sound reasoning for people from the Ministry of Financial Institutions. I had listed a specific name for rent review, an individual who my staff had indicated was prepared to come at his own expense from northern Ontario, an active member. That was rejected. Ms Poole put forward an alternative of not necessarily someone who is currently sitting but is a member who has sat on the board in the past. That was rejected. Here is the government coming at the final hour with a name, after having the nerve to reject very sound and very worthwhile requests that our party and the Liberal Party have put forward.

So I am afraid I am going to be taking the same position as Mr Brown, unless—if we are going to look at some of the things, let's look at all of the things.

Mr Abel: I am very disappointed that the two opposition parties are taking this stand. I am not surprised. In fact, I expected it. They both came up with a very ambitious list of people and they brought forth motion after motion, so I suggested that it be referred to the subcommittee to be discussed so there could be some paring down. That is exactly what happened. There was an arrangement made; yes, we listened to each other's arguments and we chose three people, experts who we thought would be beneficial to this committee. It was agreed and now they are going on and saying they are disappointed—

Mr Tilson: You are breaching the agreement.

Mr Abel: —and more or less—

Interjection.

Mr Abel: —excuse me. I believe I was recognized.

Mr Mammoliti: Is he not out of order?

The Chair: Yes, Mr Tilson is out of order.

Mr Mammoliti: Okay, just wondering.

Mr Abel: If I may, Mr Chair, continue.

The Chair: I am going to name you associate Chairman, George. Mr Abel, you have the floor.

Mr Abel: Thank you. There was a paring down and it was agreed by the subcommittee, recommended and agreed by the whole committee that these people it was recommended be invited to attend. They were the ones who talked about BC. Time and time again they had brought it up. We feel that to answer our questions and to address the comments that were made by some presenters it would be advantageous to have this person here.

The Chair: Okay, I think we are going to run a list. Did I see you nod, Mr Brown? We are going to run a list. Mr Turnbull, then Mr Mammoliti, then Mr Duignan.

Mr Turnbull: Mr Chairman, we know from bitter experience that it was not an ambitious list of names that we gave; it was a relatively conservative list. We asked for somebody from the Ministry of Financial Institutions, which is certainly within the control of this government, and yet they did not want somebody to come from one of their own ministries to talk about the financial implications in this province. We are not talking about something out-of-province, and I agree it would be useful to examine the experience out-of-province and also in the United States. But I emphasize that the financial implications of this legislation as heard from one of our own ministries was voted down by you.

You asked to speak about it in the subcommittee, which for the sake of the media we will explain is done in camera. So in this way they were able to gag us, instead of doing it in the full committee as we are doing now. We will not make that silly mistake again. If you do not want to hear the truth about what your legislation is doing in this province according to your own ministries, why do you bother having hearings?

1600

The Chair: Thank you. Mr Mammoliti, Mr Duignan, then Mr Mahoney.

Mr Mammoliti: Mr Chairman, I think we have to look at what we have here. We have a motion on the floor, a separate motion, something that is totally different from what both opposition parties are talking about. They are talking about previous motions. They are talking about motions that were dealt with. They were referred to the subcommittee. The subcommittee negotiated and it dealt with it. In lieu of that I think that we should understand that there is a motion here, a separate motion, that we should be dealing with.

Mr Abel: That they said they agreed to, by the way.

Mr Mammoliti: Which they said they agreed to. I also understand we have a plane to catch at 5 o'clock, so I would say first of all that I am totally in favour of the motion and that I think I should call the question at this point because—

Mr Mahoney: On a point of order, Mr Chair.

The Chair: There is no debate allowed when the member—

Mr Mahoney: On a point of order, Mr Chair. I believe if you read the rules you would find that it is not in order to call the question after a member has spoken and given a speech. If you call the question, you simply call the question.

The Chair: Let me consult with the clerk and I will give a ruling in a few seconds. Mr Mammoliti's request is in order.

Mr Mahoney: I would like to move for a 20-minute recess to discuss the matter.

The Chair: Mr Mahoney has moved for a 20-minute recess.

Mr Abel: Is that necessary, since all the members who are in the city are present?

The Chair: It does not matter.

Mr Abel: Okay.

The Chair: Order, please. You must understand where we are at this point. A 20-minute recess has been called for, which means that we will not return to this room until 4:24, which means that you will not make your 5 pm flight, so we need to instruct the clerk on what to do for arrangements. We will have to cancel those reservations and put you on the—7:30 is it?—if we can get on.

Mr Mahoney: Mr Chairman, I was going to make a suggestion before Mr Mammoliti put that motion. If you wish to hear it, it may solve the problem.

The Chair: I have no authority to allow you to put that position forward unless there is full consensus, unless there is unanimous consensus by the committee to allow you to do so or unless Mr Mammoliti withdraws his motion. Short of that, I am unable to allow you to do so, Mr Mahoney.

Mr Mahoney: Fine.

The Chair: We shall return at 4:24.

The committee recessed at 1604.

1621

The Chair: The chair sees a quorum. It was moved by Mr Abel that Mr David Hulchanski, professor at the University of Toronto, be invited to share with this committee his expertise on British Columbia rent control.

Motion agreed to.

Mr Abel: Let the record show that the vote was unanimous.

The Chair: The record will show that there were five votes in favour and no votes opposed.

The committee adjourned at 1622.

CONTENTS

Thursday 22 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1433
Windsor Homeless Coalition; United Tenants of Ontario G-1433
Windsor-Essex Taxpayers Coalition G-1435
Federation of Windsor-Essex County Tenants Associations G-1437
Windsor District Labour Council G-1439
Scarsdale Tenants' Association G-1442
Legal Assistance of Windsor G-1444
M. Schafer Real Estate Ltd G-1445
Twin Elms Tenants' Association G-1450
Sun Parlour Property Owners Association G-1454
Don Barratt G-1456
More Custom Homes G-1458
Windsor and District Chamber of Commerce G-1461
Municipal Retirees Organization of Ontario G-1464
Obolus Ltd G-1466
Adjournment G-1470

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with an alphabetical list of members of the Legislative Assembly of Ontario.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste alphabétique de députés de l'Assemblée législative de l'Ontario.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 26 August 1991

The committee met at 1402 in room 151.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise de l'étude du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Vice-Chair: Good afternoon. The standing committee on general government will come to order. The business of the committee is to conduct public hearings on Bill 121. Mr Abel, you had a suggestion?

Mr Abel: Yes. Last week there was quite a bit of discussion about the search and seizure procedures and we asked for a clarification. However, the person from the ministry was not a lawyer and we thought we would get a better explanation if we had somebody who did have the proper background to explain a little better to the committee the search and seizure procedures. Dana Richardson is in the audience and if we could be allowed some time for her to give us a brief explanation, hopefully, that would clear up some concerns the committee members have.

The Vice-Chair: Certainly. Do we have consent?

Ms Poole: Might I suggest that since we are having the ministry present to us tomorrow, that might be a more appropriate time? If we do entertain that suggestion right now we will get behind, and we have a number of witnesses to appear before us this afternoon.

The Vice-Chair: I recognize that problem, Ms Poole, but we do have one cancellation in the witnesses, so the time element should not be that critical. I am at the disposal of the committee. Do we have consent to hear from the ministry? I do not think it should take a remarkably long period of time.

Ms Harrington: With regard to Ms Poole's concern, I have asked Dana and she said it would be very brief. I was concerned that it might come up again as an issue this afternoon; that we would need that clarification today. It is up to you.

The Vice-Chair: With the consent of the committee, I will ask the Ministry of Housing representative to come forward and identify yourself, Dana, and present your information.

Ms Richardson: My name is Dana Richardson. I am with the Ministry of Housing in the housing policy branch. I am speaking to you today on behalf of the policy branch, and if you need some more detailed legal clarification, we of course would undertake to provide that at any other time that might be convenient.

The powers of inspection under Bill 121 can be broken down into three types of inspections. The first type of inspection would be the kind that might be conducted by a hearings officer, a rent officer, in the course of a hearing. Under the Statutory Powers Procedure Act there is the power and authority for an inspection to happen in the course of the hearing, and that would be done in the presence of the parties or their representatives.

A second kind of inspection would be the kind done to determine if there has been compliance with the provincial maintenance standard, and this kind of inspection would be the kind that municipal property standards officers would do, where they look to see about the standard of maintenance as it relates to the provincial standard. It may happen that a work order is the result of that particular kind of inspection.

Then there is the third kind of inspection to determine whether there is compliance with other aspects of the legislation, for example, to determine if there has been a key money offence committed; those kinds of inspections.

In all cases, the inspection cannot occur unless there is consent of the occupier or unless a warrant is issued under the authority of Bill 121.

Those three principal types of inspections were actually available under the Residential Rent Regulation Act. There are provisions in Bill 121 that actually make it slightly more restrictive than under the previous legislation; for instance, the inspection can occur only between 7 am and 9 pm. There is the power of a warrant issued under this particular act. We believe that these particular provisions will protect the privacy of the individual in his dwelling place, as well as provide an opportunity for an inspector simply to inspect to determine if there has been compliance with the act and without the requirement that he actually seize things under that kind of inspection, and that these kinds of things would be consistent with the recent interpretations of the Charter of Rights and Freedoms.

I could go through some of the procedures actually set out in the legislation of what would happen if there is not consent and what would happen if there is consent for a particular kind of inspection. Some of them actually may be quite informal. If you have consent, you can make arrangements with the parties on when you would attend at the premises to look at the standard of maintenance, for instance.

Ms Poole: Thank you for that explanation. I am under the impression that a lot of the confusion around this particular section stems from the fact that "occupier" is not described nor indeed defined. It makes a difference whether the occupier can be both the landlord and the tenant or if it is only the tenant or is only the landlord, and I think that is the source of a lot of the confusion. Does the Ministry of Housing have a definition of "occupier," and can you provide that to us at this time?

Ms Richardson: The kind of thing we would be looking at, and it is not defined in the act itself, is that it depends on

the premises. If it is an individual's rental unit, then the occupier would be the tenant. If it is that part of the residential complex that is under the sole control of the landlord, for instance, the furnace room or even the roof, that kind of thing, then it is the landlord who must give you that consent. If it is the common area, I think it could be both the landlord and the tenant in that kind of circumstance, but that particular circumstance I would like to ask our legal branch about.

Ms Poole: Could you provide us with some specifics on that tomorrow when the ministry makes the presentation?

Ms Richardson: We will certainly try to do so.

Mr Abel: Having heard your explanation, Dana, in fact these proposed powers appear to me after the explanation to be far more in line with the charter than was the case under the Liberal system. Is that an accurate statement?

1410

Ms Richardson: The RRRA was not actually tested as an actual case that inquired into the charter implications of search and seizure, to the best of my knowledge, so I could not say what a court definitively would respond to that kind of statement. We believe that because there is a growing trend in case law under the charter, the provisions in this particular section are now more reflective of those growing trends.

Ms Harrington: At the last meeting of this committee, these procedures, the search and seizure provisions, were characterized as being Gestapo and establishing rent police in Ontario. Would you be willing to say that the provisions are more in line with the charter and respectful of people's rights, whether they be landlord or tenant?

Ms Richardson: We believe that they do comply with the charter provisions, and I would not like to say anything more than that.

Mr Tilson: I do not believe they are; this is no reflection on you; it is a reflection on the government. I think it is the establishment of a rent police, which is something that we have never seen in this country before. Looking through, just for example, the power to enter, which is section 113, they are wide, sweeping powers as to what the inspector can do. They can "enter any place." We do not know what that means. They can inspect anything they want. The wording says, "inspect any records or other things," and that indeed is wide and sweeping. It could mean the landlord's personal diary.

Ms Richardson: The purpose of such an inspection must be to determine whether there is compliance with the legislation. I mean, it is not entirely wide open for any other kind of investigation.

Mr Tilson: It is the type of police action that I think that we abhor in this country and I find it shocking. Under 113(3)(c) they can "inquire into any matters." That is indeed wide and sweeping and enables the inspector to do anything legally.

Ms Richardson: I believe that must be read in the context of this particular legislation and you must look to the purposes of the legislation. I could not agree with you that it is as wide as you are suggesting.

Mr Tilson: My suggestion is that when you are giving these people such wide powers, they should be quite specific as to what they can do, but you do not allow them to seize just anything, and that is what this section enables them to do, and they just cannot inquire into anything, and that is what this section allows them to do. Surely the legislation should be quite specific as to what they can seize and what they can make inquiries into.

Indeed I do say that this rent police clause, and that is clearly what it is, is almost a Gestapo type of inquiry, and I say that because there are no specific guidelines or restrictions as to what these inspectors can do. I can tell you that our party is not even in favour of the clause at all, but I think it would be most shocking if the government allowed this clause to pass with such general provisions.

Ms Poole: If the ministry could provide us with one more thing tomorrow when you present to us, that would be an explanation of where you intend for these guidelines to fall. For instance, you said the occupier would change depending on the circumstance. Are you going to put this in regulations? Are you thinking of an amendment to incorporate into the legislation? Is the ministry going to issue policy guidelines which just give an overview to people of what they may expect? Particularly with the limited right of appeal that is available now under this legislation, it will be very important for people to know what they can expect, and not only that, what the legislation requires. So if we could have that at the same time, I would appreciate it.

Ms Richardson: We will review that, Ms Poole.

Ms Harrington: Just to comment—it is a final statement here—I think, the intent of this government is clear, and that is to protect people's rights, and if the opposition wants to read in other motives, I believe that it is entirely wrong.

The Vice-Chair: I should at this point bring to the attention of members that you have before you a folder which contains many of the exhibits for Ottawa. I am sure most members will want to review those before we go to Ottawa, and we also have a submission from the Canadian Bankers Association, which will appear before us tomorrow, and you may want to go over that.

FEDERATION OF METRO TENANTS' ASSOCIATIONS

The Vice-Chair: The first presenter today is the Federation of Metro Tenants' Associations. As an umbrella group, they have one half-hour to make their presentation. I will be forced by the committee to cut you off at one half-hour, so those are the rules of the game today. If you would introduce yourselves and your positions within the organization for the purposes of our Hansard record, that will be appreciated.

Ms Hall: I am Joyce Hall, the chair of a volunteer board of directors which determines all the major decisions at the Federation of Metro Tenants' Association. Pat Fletcher is a staff person, the policy adviser, and one of four staff members.

Ms Fletcher: I would like to begin by stating who we are and what our long-term position has been on tenant issues. The federation is a non-profit organization of tenants,

tenants' associations, honorary supporters and non-profit co-op members representing tenants in Metropolitan Toronto and the regional municipalities of Durham, Peel, York and Halton.

We have consistently taken the position that decent, affordable housing is a fundamental human right. Thus, the responsibility for its provision is a social one. This is a position that the current government has stated in several documents since it took power almost a year ago.

In May 1989, our federation held a tenant lobby day. On that day, then Housing critic Dave Cooke introduced a resolution to the House calling for rent control and defined it specifically as one guideline rent increase a year based on inflation. The current government rode to power on this platform, as stated in its Agenda for People. There is no reason for the NDP to have abandoned this position once in power.

The housing crisis has not abated. We are in a recession. The increased use of food banks and information about their users reveals that people pay their shelter costs before buying food. We know that tenant income is falling behind home owner income. A recent report by Wood Gundy states that wages of Canadian workers will not increase for some time to come because of a high Canadian dollar. Since 1980, rents have risen 11% to 18% in major centres, whereas real renter incomes have shown little or no increase. Thus, the affordability of rental housing has been in decline for some time.

I would add that there is no information to show the same trend has occurred in landlord income, so obviously now is the time to do it right. Yet what we see in this legislation is a continuation of a system which continues to guarantee landlord profit and chooses the bribery over the enforcement approach to maintenance. In important sections it fails to recognize that the landlord-tenant relationship is fraught with the problems of any relationship in which there is a large power differential. That is something that is very important to remember when drafting legislation. Some of the abuses of previous legislation have been curtailed. However, I think you will understand through this presentation why Bill 121 needs major revision to provide real tenant protection.

In the first place, rent increases above the rate of inflation will be the norm under Bill 121. This is contrary to what tenants were led to expect and contrary to what a people-oriented policy would provide. There are at least five ways that rents will be allowed to go up faster than inflation, and landlords are finding more even as we speak.

In the first place, operating cost increases: This has to do with the guideline and the guideline formula, which we found out last week is 6% for the coming year. Tenants are required to pay for increases in the costs that landlords incur in the operation of their buildings as part of the annual guideline. Although they are probably less able than landlords to pay for this inflation, the policy of permitting increases based on inflation has generally been accepted by tenants as well as the NDP. The only figures that the government has ever released put operating costs at less than one half of a tenant's monthly rent. Nevertheless, the majority of tenants, those in buildings with six or fewer units, will have the first part of their rent increase calculated as if these costs make up two thirds of their rent. This is the first step that Bill 121 takes to push rents up faster than inflation.

1420

We recommend that you reduce the operating cost portion of the guideline to one half of the rent control index for all tenants. The plan to shut up small landlords by giving them a small bonus in their rent increase each year will not work and will only erode the affordability of rental housing.

The second way that this legislation will allow rents to go up faster than inflation is the 2% bonus allocated to capital expenditures. Rents are further inflated each year by an additional unjustified 2%. While the legislation declares that this money is allocated to capital expenditures, there is nothing that requires that it actually be spent for that purpose. For all the assurances that tenants get that it might be used to improve and extend the life of the building, you might as well have allocated it to Mediterranean cruises, because landlords are just as likely to spend it on those. I am sure it is quite obvious to everyone that unless you ensure that portion of the guideline is spent the way it is supposed to be spent, it is completely fatuous to insist or declare that it should be spent on capital improvements.

This is the same 2% that the Liberals included in their rent bill. The hundreds of millions of dollars that landlords have collected under this provision have not been spent on long-term repair and preservation of buildings, and our rental housing stock continues to deteriorate. This proposal, the 2%, was an experiment in trusting landlords to do the right thing, and the experiment has failed. The government and its advisers must start learning from experience.

If additional money is to be added on top of landlords' inflation protection, there must be a guarantee that it will be used to enhance and protect our homes. If you will not accept our proposals for a capital reserve fund to do that and cannot devise your own method of ensuring that this money is spent on capital work, the 2% bonus must be dropped.

The third way is cost pass-through of building maintenance and upgrading. After years of seeing the disruption the cost pass-through system of rent regulation has caused for tenants, it is almost impossible for us to believe that the government is proposing to continue it. Yet here it is. The NDP government has completely swallowed the landlord line on this issue. There is money to permit landlords to comply with their legal obligation to repair and maintain our homes and their social obligations to provide access to the disabled and to conserve energy.

Ontario's tenants pay $8 billion in rent each year. Where is all that money going? There is no information—we do not know where that money is going. Where is the 2% above inflation that has been built into our rent every year since 1985 and now comprises about 10% of every rent? Where is all the money we are paying for capital work that has long been paid off? Virtually all these rent increases are on rents that were set before any regulation was in place. What kind of fool would set his prices in the unregulated market without making plans for the ongoing renewal of the income-producing property?

The answer to these questions is that there is a vast amount of money paid by tenants each month that should be used by landlords to meet their legal and social obligations. If the enforcement provisions of the various laws dealing with maintenance and repair were worth a damn, tenants could ensure compliance with them. But instead of ensuring decent homes for tenants, all the cost pass-through provisions do is open up ways for landlords, their lawyers and their agents to drive rents up ever faster.

Just so it will not be too hard for landlords to get their rents up, you have even provided for the convenience of an increase without even having to fully justify each annual increase. The Liberals called it a "phase-in." This government called it a "carry-forward"—something that you might put your groceries in or carry a baby in. However, it is as sinister as ever, and leaves tenants helpless to oppose rent increases that they know are unfair.

I cannot describe to you the indignation that tenants feel and that we hear every day on the phone—the increases that they have already paid and felt helpless to oppose. It was that feeling of helplessness that led tenants to vote for a change in government. They deserve more from the government they elected. If you are to allow increases above inflation to reward landlords who spend money to comply with their legal and social obligations, then all such claims should be tested at hearings where tenants can raise the issues that are important to them.

Finally, we hope you are not fooling yourselves that the definition of "eligible" as it pertains to capital expenditures in any way reduces the scope of landlords' freedom to impose unwanted or unnecessary work on tenants. There are experts who, for the right amount of money, will write a report on how a marble lobby increases energy conservation. We challenge the ministry to provide statistics as to how many capital expenditures allowed under the RRRA would have been disallowed under this section. Without even hearing the creative arguments of the landlords, we would be sure that they would still allow over 95% of these claims.

With the 3% cap, the government will be spared the embarrassing headlines of 20% rent increases for wasteful and unnecessary repairs. But over three or four years, the landlords will get the rents just the same. You will not spare low-income tenants the tragedy of economic eviction and homelessness or protect the standard of living of working families.

Four, the lopsided proposals for extraordinary operating costs: The proposals to allow increases above inflation for taxes, hydro, water and heating provide further opportunities for landlords to inflate rents and erode affordability. It must be obvious to you that there is no way that tenants will know if the increases in these items are extraordinarily low. Thus, the proposal will only increase rents, never lower them. Second, having taken the benefit of the increases provided by this proposal, the landlord will benefit again when those increases go into increasing the guideline in later years.

There are two ways to remedy this injustice: the hard way and the easy way. The hard way is to require every landlord to inform every tenant every year of the amount of taxes, hydro, water and heating costs applicable to their unit so that the tenant can make an informed decision on whether they should apply to rent review. The easy way is to remove these grounds for rent increases over the guideline and save everyone a lot of trouble.

Five, the invitation to force and fraud called "tenant consent": The front-line workers at the federation as well as at rent review services offices all across the province know how insecure most tenants are when it comes to confronting their landlords. However, the government continues to pretend that there is no imbalance of power in the landlord-tenant relationship and that landlords will not take advantage of tenants' need for a home to force rent increases that could not be justified.

The legislation proposes that tenants can agree to pay more rent in return for having work done on their unit or for having new or additional services provided to their unit. Who does not want a fridge and stove that work properly? Who does not want their unit painted after they have lived in it for a few years? But it is only those tenants who agree to an extra 3% increase every year that will get these extras.

There is no restriction of these expenses to necessary items or to replacement of things that need to be replaced. Anything goes. Leave it to the tenants to protect themselves against those landlords who wish to exploit these sections to push rents up. Would not a landlord be foolish to rent to a lower-income person when a higher-income person would be more likely to agree to extra increases every year? Landlords admit they already discriminate in this way, even when it violates the Human Rights Code. This government should not be providing landlords with further incentives to choose well-off tenants over lower-income tenants. Yet this is what these sections will do.

If that was not enough, landlords would be given an opportunity to pretend that the tenant agreed to the specified work or the new service even if he never had the chance to say no. This would be done by means of the advance determination, where the tenant moving out would be handed the prescribed form to sign so that the incoming tenant would be forced to pay the extra rent increase. The only recourse the new tenant will have to take his resentment about paying this increase is at the ballot box in the next election.

Six, the reappearance of the 1990 spending orgy: To this date, the one major rent control mechanism this government has implemented has been the creation of a moratorium on rent increases arising from capital work. Under Bill 4, the government, while stressing the importance of well-maintained buildings, recognized that tenants are already paying for the costs incurred by landlords in meeting their maintenance and repair obligations. It expected that landlords would exercise good business sense and maintain their investment. They would then recoup their costs upon sale.

While tenants were given a reprieve, it now appears that not only is this one good control mechanism to be removed, it is to be removed retroactively. Under Bill 121, landlords will be able to apply for an increase on the basis of capital costs experienced between January 1, 1990, and June 1991.

1430

When Bill 4 was put in place the government stated that it wanted to clear out the backlog during the period

Bill 4 was in effect. Now it will be creating a new backlog as landlords apply for increases based on old costs as well as making applications for more recent work.

This concession to landlord pressure is a fundamental breach of this government's previous promises. This government promised to hold rents down in 1991; it never told tenants they would pay increases in 1993 that would cancel out what they saved in 1991.

Essentially, this tactic operates in the same way as when landlords forfeit a rent increase for one year but are permitted in the next year to add two increases on to the rent and bring it up to the maximum. In the same way, landlords may have lost out in 1991 but they will still be able to jack up the maximum rent on the basis of 1991 work to the level that would have been chargeable had Bill 4 never been enacted.

To landlords, that is what counts. By raising the maximum rent, all additional increases taken become even more substantial. Landlords, with this type of claim, will be able to coast comfortably for the next several years on this ordered increase plus guidelines. To tenants, there will be no long-term benefits arising from the brief appearance of real rent controls under Bill 4.

Ms Hall: I am wondering if I could ask the Vice-Chair or the clerk for the clock time of the end of our presentation.

The Vice-Chair: You have 14½ minutes left.

Ms Hall: Reserve fund: The capital reserve fund is a proposal that the tenant movement put forward as a way of ensuring that the residential rental housing stock remains in good condition or is certainly improved, as much of it needs to be. We would like to take this opportunity to say that we remain firm in our conviction that this province-wide reserve fund is the only road to the goals of extending the life of the existing residential rental housing stock, preserving affordability and improving the quality of life for renters.

The political will to take this step must be found. We hope it will come with foresight rather than belatedly after a flood of horror stories.

The Liberals promised that the residential complex cost index formula would be revisited to see whether the 2% bonus had been voluntarily employed by landlords to pay for capital expenditures. As I have said, that did not take place. In our presentation we refer you to a landlord deputation by James Bright. It never crossed his mind that he should use some of the 2% that he has been collecting all these years since 1986 to pay for capital costs. Obviously landlords have come into the habit of accepting this 2% as theirs to do with as they want.

The committee should not buy into the argument of some landlord lobbyists that it is in the economic interest of every landlord to maintain residential buildings, so of course they are doing so to the maximum extent possible. We refer the committee to the studies which led to the Rental Housing Protection Act. Studies at that time showed that a loss of 25% of the housing stock through conversion was anticipated if the RHPA had not been passed. Far too many landlords did not want to extend the life of their buildings. They wanted to convert them to alternate uses or sell them for the purposes of conversion.

The situation now is interesting in relation to real estate costs. Many older buildings sit on lots whose value has changed enormously since they were built. The expanding commercial core surrounds low-rise buildings erected in areas that were once exclusively residential. Urban sprawl has surrounded buildings that were once in outlying areas. A lot of rental accommodation is built on land that is one rezoning application away from being more valuable vacant than tenanted. Tenants do not have enough money to compete to be the most profitable investment on much of our urban land, but does that mean we sacrifice it?

In some cases the landlord's economic interest would be best served by milking the land for residential rental use until the receipt of a comply-or-demolish order—these come from the municipalities—then demolishing.

We can no longer pretend that money collected for capital expenditures will be used for that purpose if we leave that choice to the landlord's discretion. Later on in this presentation there is a case study of Tuxedo Court which makes this point very clearly.

The federation has developed a plan for a province-wide reserve fund because we believe that a broad income base will be required to do the necessary work. As the capital expenditure requirements of a building are not correlated to the ability of its tenants to pay, an individual building is almost certainly going to be either over or underfunded by an individual building fund. Preserving the existing housing stock and extending its life will meet important social goals, and the cost should be widely shared. The housing crisis has hidden social costs, and a broad-based response is both appropriate and necessary.

Disbursements for capital expenditures should be monitored for necessity, priority, quality of work and whether the work is actually done. We envision a structure similar to the current low-rise rehab program where provincial inspectors would confirm the necessity of work and confirm the successful completion of work.

Tenant advocates attempted to find a solution for the need to complete $1 billion in capital repairs in the immediate future. Such a huge problem requires a detailed implementation plan, and tenant advocates developed a creative solution. However, it may be that labour and materials are not available to complete all those repairs immediately and the costs of administering such a plan would be impossibly high.

None the less, even if a fund was established from the $500 million currently built into rents through the 1% capital expenditure allowance initiated in 1986, that $500 million would represent four to five times as much work as has previously been done in any one year. So tenants are paying for that work and it is not being done. This amount of annual expenditure would make significant inroads into the backlog and provide for as much major maintenance as we can reasonably hope to accomplish.

The Vice-Chair: There are about nine minutes left and the committee always appreciates some time for questions.

Ms Fletcher: Rent registry: Requiring landlords to provide information on annual rents charged is not a novel idea and should come as no surprise to landlords. In 1979

the Conservatives brought in the Residential Tenancies Act, which established a rent registry. In 1987 the RRRA made it clear that all residential landlords would eventually have to provide information regarding rents actually charged in 1985.

At the time the RRRA provisions were recognized as a general amnesty for landlords because 1985 rents frequently incorporated illegal increases taken over several years. None the less, these rents became legitimized as the base rent to which all future increases could be added. The Liberal government's legislation in effect condoned landlords' contraventions of previous legislation while promising to regulate landlords' activities in the future.

With Bill 121, this government is continuing this magnanimous tradition. It is again assuring landlords of four to six units that they will be permitted to benefit from their past transgressions as long as they promise to behave from now on. The magic from-now-on date is the date of the government's assumption of power, October 1, 1990. The rent on this date, whatever it was, will be the base on to which all future increases are added.

What is the effect of this provision? It drastically increases the chances that the registered rents result from illegally taken rent increases. Between 1987 and 1990 the severe rental housing crisis made it a landlord's market and rents skyrocketed to take advantage of what the market—read the desperate consumer—was prepared to pay. Many apartments and former single-family dwellings increased by several hundred dollars within one year without government approval.

This legislation, in accepting 1990 rents, legalizes landlords' illegal exploitation of tenants over the past four years. Bill 121 should simply incorporate those provisions of the RRRA by which the Liberals prepared landlords for having to file information. This requirement will come as no surprise to landlords. They cannot protest that the rules have been suddenly changed. The provisions are simply being applied, finally.

Complexes with under seven units are not necessarily owned by mom and pop, the small landlords who are unsophisticated in the ways of business and unaccustomed to keeping any proper accounts of such an insignificant source of income.

Bill 121 already provides for the registrar to exercise his or her discretionary power and to permit a landlord to register a later rent in certain circumstances. This provision takes care of those exceptional cases when the government does not want to be unduly severe with landlords who genuinely do not know how much money they have managed to accumulate in the past number of years. However, it is not necessary to exempt four- and six-unit landlords from having to account for the legality of their rents any earlier than October 1990.

If this government still has the political will to preserve the affordable housing that still exists, then the rent registry is fundamental to the realization of this goal. Affordable rents must start from an affordable base rent, which is not possible when that base rent reflects a series of illegal increases.

1440

Ms Hall: I would just like to bring your attention to, on page 13, costs no longer borne. This is extremely important. It is the only way we see of bringing rents that have skyrocketed into an unaffordable range back down. There is a case history in there that I mentioned, Tuxedo Court, where rents are $1,200 a month and the building does not merit that kind of rent at all. These kinds of rents can be brought down if a costs-no-longer-borne provision is included in this legislation. It can remedy some of the devastation that has occurred under the RRRA. So I urge you to read that section and that case history.

On page 16 there is a section on the five-year exemption for new buildings as a backwards step. We see nothing to be gained from that at all and it was certainly a very great surprise for us to see it in the legislation.

On page 17, the procedure for hearings is also very important. I am afraid I am not going to be able to read through all this, but tenants feel so alienated from justice and from any recourse to justice as it is. If you eliminate their ability to apply for a hearing, you will be doing them a major disservice. One of the big problems, of course, is that tenants are not given enough time in this legislation. There is some kind of 15-day limit and they really will only have about five days' turnaround time after getting a notice of rent increase to figure out what they are going to do, and it is just impossible for tenants to apply for a hearing given that short notice. So we recommend that the hearings procedure that is in place be extended.

Moving to page 20, we do acknowledge that there are improvements. The elimination of financing costs as grounds for rent increase is a major improvement. We were also pleased to see that no longer will tenants have to pay hikes in rent due to mortgage increases incurred by the landlord.

I will jump now just to the conclusion. Bill 121 does not address the issue of buildings where the rents have already skyrocketed out of the affordable range. As I said, the costs-no-longer-borne provisions would help there. It does nothing to guarantee that buildings that are still affordable will remain so. Note that we have a complex formula that came out at the end of last week, the building operating cost index formula, ensuring that all of landlords' possible costs are covered by an annual guideline increase, and 2% is tacked on to that. Under Bill 121 landlords can apply endlessly for a 3% bonus. Where is the formula that ensures that tenants' homes remain within the range of their incomes? If you can come up with a fancy formula to make sure that all the landlords' costs are covered, what about retaining affordability? Where is the affordability index? There is no formula, no clause, no measure whatsoever in this legislation which defines or even uses the word "affordability" or looks critically at the cost of rental housing and seriously looks at the future and what we can anticipate from this legislation in the future if it goes through as it is written.

We cannot assume that market forces will moderate rents. Here is what has happened in a few buildings where rents have risen out of market range. In one of our member tenant associations the new tenants are coming in at $200

lower than the existing tenants because the landlord is trying to attract new tenants. You can imagine how angry the old tenants are. They go to the landlord, they say: "Hey, my neighbour in exactly the same apartment is renting for $200 lower. I want a rent decrease," and the landlord says, "No such luck." So they feel totally infuriated. Also, that new tenant who has come in at the lower rent is sitting on a time bomb because the registered maximum legal rent is $200 higher than what he or she is paying, so given appropriate notice he could suddenly get a drastic increase in his rent.

Another of our tenants' associations reports that, yes, the tenants are leaving because the rents are unaffordable and the landlord is converting to hotel apartments. We all know that that is illegal, but that does not stop them from doing it.

Another tenants' association in a building which has municipal work orders outstanding reports that the landlord is just letting the suites remain vacant. What the landlord's game is we do not know, but it is anyone's guess. He may just be waiting for a comply-or-demolish order from the municipality and then to try to jump through a loophole of the Rental Housing Protection Act and convert the building or demolish.

The majority of tenants, however, stay put in buildings where the rents have skyrocketed, and they pay up. They make sacrifices because they have to. One reason people give is that they cannot afford the first and last months' rent they need to move out, so they are on a real treadmill. Other tenants double up, so you get social costs involved in overcrowding.

We have not had time to deal with the puzzling decision to get rid of the Residential Rental Standards Board. It fulfilled an important role and should not be allowed to expire.

We look forward to having further input into Bill 121 in the near future. I will conclude simply by saying this piece of legislation needs major revision. Thank you.

The Vice-Chair: Thank you. We appreciate your presentation and, at times, your speed reading. Unfortunately, your time has expired and there will not be an opportunity for the committee to place questions. Thank you very much for appearing.

Ms Poole: Mr Chair, since we have had two cancellations this afternoon, would it be possible to have unanimous consent to extend their presentation by five or six minutes at least, so we can have one opportunity to question?

The Vice-Chair: Do I have unanimous consent for that?

Mr Tilson: I guess the difficulty, Mr Chair, is that there are other groups that may say the same thing. To be fair to everyone, I think we should treat everyone the same.

The Vice-Chair: We do not have unanimous consent.

Ms Hall: Okay. You can always get hold of us at the federation.

1450

ASSOCIATION FOR FURTHERING ONTARIO'S RENTAL DEVELOPMENT

The Vice-Chair: The next presentation will be made by the Association for Furthering Ontario's Rental Development, Mr Alan Every. Good afternoon. Your group has been allocated one half-hour. I will attempt to be somewhat helpful in warning you as you come to the end of that half-hour. The members appreciate an opportunity to ask questions. If you can leave some time in your presentation, we always appreciate that, but it is totally up to you. You may begin.

Mr Every: I am Alan Every. With me is Bert Reitter. We are both from AFFORD.

AFFORD has prepared a detailed submission, which includes sections A through G, together with 12 appendices in support thereof, which I hope you all have before you now. The following comments summarize our thoughts with respect to the issues of Bill 121, Ontario's rent review legislation, and rent controls in general.

Many of those in attendance today are here because AFFORD invited them to do so by placing an ad in the most influential daily business publications in North America last Friday. Why, you ask? Because these hearings have been poorly attended, not by those with vested interests from all walks of life who have invested their time to prepare and present their submissions but, more important, by the media, upon which the populace of this province relies for informed and accurate reporting of events in order to formulate opinions concerning matters which are, or certainly should be, of grave concern when it comes to issues the determination of which, in this case, could needlessly cost Ontario's taxpayers billions of dollars, inflating a bloated deficit which will undoubtedly lead to higher and higher taxes.

The media have a responsibility to communicate the real facts that must be understood by all concerned if an informed, intelligent public policy concerning housing is to be adopted by this new government, assuming it is influenced by public opinion, which we are sorry to say is not likely the case. Only if the true facts and the evidence, including the opinions of those numerous experts in the field of rental housing who have testified before you, are publicized outside of these hearing rooms, only then will the public have any chance of understanding.

These hearings, like those for Bill 4, will have been such a sham, not because of the participation of the opposition parties but because this government formulates policy based on an ideology which is blind to truth and common sense, a party which adheres only to a dogma founded in convenient fictions perpetrated by the propagandists of a political philosophy which was proven beyond doubt, once again, by the very events of just last week halfway around the world, to be a universal failure.

Why is the future of the residential rental industry so important to Ontario? Because this industry has invested in and manages nearly 1.2 million apartments, which are known as home to over 40% of the residents of this province; because our industry, as a member of the business community, provides the cheapest form of self-contained accommodation in Ontario, at an average rent of just $550 a month in 1990, which on average absorbs less than 18% of tenants' incomes; because this government believes that rental housing in Ontario should not make a profit, a fact confirmed by then minister Rosario Marchese at a public meeting held on July 2, 1991. I refer you to appendix 3. It believes the government can do it better than business, that it has been given a mandate indeed to drive us out of business.

In the democratic free world, expropriation by governments for fair compensation is nothing new, but this is not what has been going on in Ontario for the past 11 months. This government has entered into an unholy alliance with the so-called tenant representatives of the far left to pass legislation which, in the very words of the highest elected official of this province, spoken in the Ontario Legislature on May 2, 1990, "will decrease the value of buildings, and landlords will want to get out of business....I do not see why a building...should not be able to be purchased by the tenants as a group and should not be able to be operated on a non-profit basis."

Your legislation goes far beyond the issue of "protecting" tenants. That could have been accomplished quite readily, by dealing with the so-called "abuses," by dealing with "flips"—not to be confused with the legitimate sale of a property by its original builder to a purchaser 20 years after construction, as has commonly been the case with the vast majority of our purchases—by dealing with the truly rare incidences of marble lobbies, rather than condemn an entire industry to financial hardship of varying degrees. It does not take a Rhodes scholar to figure out that, for example, the solution to the problem of drunk driving is not to ban the consumption of alcohol universally.

The fact is, your legislation will indeed serve to accomplish precisely what the Premier of this province has, both inside and outside of the Legislature, stated repeatedly and publicly that he would do: force down values by driving down cash flows and force landlords into a position of having, out of necessity, or wanting, out of fear, to leave the industry altogether, in either case the path having been paved for a cheap buyout by the province on its own account or as agent, in either case for the direct benefit of those who it perceives elected this government to office.

For Ontarians, this is not democracy in its finest hour. No democratically elected government should consider it to be its right to orchestrate the plundering of wealth of a legitimate minority in society for the direct financial benefit of a greater identifiable minority, as well of the populace, in order to curry its favour in return for votes. We believe this government has, at the very least, a moral obligation to defend and protect all segments of society. Instead this government, by its very actions, has chosen a path of effective confiscation of values, in many cases to be quickly followed by a loss of ownership, and for the rest, a voluntary departure from the industry, sooner or later, at continuingly depressed prices as investors avoid our industry, from the certain fate that lies ahead.

For your information, in one of the first, but certainly not the last, incidents of a Toronto landlord who incurred capital expenditures on her buildings, the related application having been denied by Bill 4, has just today been evicted from her home, together with her five children, because she personally guaranteed a mortgage loan that could not be refinanced due to your legislation. You can see for yourselves later on CFTO-TV more details of her plight.

How does this government justify this behaviour? Because it shamefully believes that the end justifies the means, by conducting a campaign intended to discredit all landlords, a campaign that the Fair Rental Policy Organization of Ontario so eloquently described as a "'big lie' program ... the classical tools of propaganda: distortion and avoidance of facts, pejorative characterization of an entire population based on the behaviour of a tiny minority, and the use of biased and inflammatory language to try to influence the populace."

[Interruption]

Mr Turnbull: Mr Chairman, would you please instruct these people to be silent or eject them from the room.

The Vice-Chair: This is a proceeding of the Legislature of Ontario. Interjections of any kind from the audience will not be permitted.

Mr Every: After 15 years of coping with successive generations of rent controls, landlords are now being held responsible for the very symptoms of an ailing industry that past controls guaranteed would inevitably come about. We are now being made a scapegoat for what can squarely be laid on the shoulders of the NDP, whose mentors in the past have taken full credit for forcing the issue in 1975. Landlords have clearly, through your legislation, become the victims of prejudice and persecution—for the older members of our industry, for not the first time in their lives—a matter the Premier should be personally most sensitive to.

All of the factual evidence—rental statistics from CMHC and Statistics Canada compiled for the last 20 years, from economists, from the Ontario government's own industry study conducted by Royal LePage in 1989, from the independent report of the Commission of Inquiry into Residential Tenancies headed by the well-respected Stuart Thom, and not to discount at all the majority of those informed submissions made before this committee with respect to Bill 4 and Bill 121—is overwhelming and exposes this propaganda campaign as being nothing short of a malicious concoction of misinformation, half-truths and misrepresentations, all designed to deceive both tenants and the public at large, to induce a passive acceptance of your plan to, in effect, confiscate without compensation the economic value of our buildings, to create an atmosphere of apprehension among landlords and to lay the groundwork for your perceived constituents to buy us out.

I am a chartered accountant, a partner in Ontario's largest privately owned residential management business, and was personally instrumental in the purchase and financing of many buildings, including the acquisition in 1986 of 5,700 suites of the former Cadillac Fairview buildings. As one who possesses by training the experience and knowledge of valuation of apartment buildings and businesses in general, I can assure you that any business as a going concern is only worth the present value of its future long-term cash flows, which I appreciate can be a difficult concept for a lay person, a non-business person, to understand. However, any change in circumstances that can reasonably be expected to negatively influence the future income of an apartment building will result in the devaluation of that building directly proportionate to the degree of anticipated decline in net income.

In fact, values of rental properties across Ontario have plummeted by 20% to 30%, not at all due to the economy, since our industry, with close to full occupancy at all times, is

virtually recession-proof. Values have fallen drastically for one reason alone, the sudden decline in the expectations for the future of this industry in Ontario; in economic terms, a decline in demand contemporaneous to an increase in the supply of buildings for sale.

What changes in the legislation, those heralded by Bill 4 and Bill 121, will cause future cash flows to decline? The elimination of the financial loss provisions on a retroactive basis ensures that buildings, once expected eventually to break even, will now lose money into perpetuity. It is a fact. As well, unavoidable future capital expenditures will not give rise to increases in rent to compensate the building owner by enough to cover even interest on loans, if they can be obtained to perform the work, and current cash flows certainly do not cover major repairs. As well, the annual ceiling will, after 1992, represent approximately 80% of inflation, meaning that when the purchasing power of the dollar is accounted for, rents and profits, if any, will actually decline.

What has made these changes so unfair is how they were made—retroactively, by changing the rules in the middle of the game, so to speak, which is in any language known as cheating; and cancelling the eligibility of recovering the cost of capital expenditures after the money was spent, often having been borrowed, is known as theft.

Mr Chairman, the evidence is overwhelming. Rent controls simply do not work. All of the major newspapers have editorialized against rent controls. Economists who are neither tenants nor landlords have told you that they do not work because they never have.

The problem, in a nutshell, is not that of excessive rents for all tenants, but of insufficient incomes of a clear minority of tenants, and that, we submit, is not the fault of landlords. The only honest solution to our mutual dilemma is to institute some form of shelter allowance paid out of general tax revenues to those who truly qualify.

Your government has already acknowledged in the spring budget that it does not have the money to build and subsidize the horrendous costs of its alternative to our solution. We implore you to come to your senses. Put an end to controls gradually over, say, five years, and let the business community do what it can do best: Restore health to this province's rental industry, and, in doing so, take a giant step towards the recovery of our ailing economy.

1500

The Vice-Chair: The Liberal caucus is first, followed by the Conservatives and then the government. Ms Poole.

Ms Poole: Thank you for your presentation. How much time do we have?

The Vice-Chair: Almost six minutes.

Ms Poole: Each? This is strange.

The first question I would like to ask you refers back to your comments on page 6, when you say, "In fact, values of rental properties across Ontario have plummeted by 20% to 30%, not at all due to the economy, since our industry, with close to full occupancy at all times, is virtually recession-proof." Do you have any statistics or documentation that would show there is any differential between, say, September of 1990, prior to the introduction of any rent control legislation and, say, October or November of 1990, after the introduction of Bill 4?

Mr Every: We have a number of clients who have had appraisals performed immediately before the election, and in the months to follow and just recently. I can assure you that in every case, there has been a drastic decline in values where the identical buildings were being appraised under identical circumstances. The cash flows had not changed, but the market had.

Ms Poole: Would this be true of, say, the 1981 recession where apartments, rental units, basically held their value because of the occupancy rate?

Mr Reitter: If I may answer that, Ms Poole, in the recession which you just referred to, there was absolutely no change and I mean virtually no change in the escalation of values of real estate properties. Here, we have not only a change in the escalation, we have no escalation. We have a de-escalation.

I can share with my colleague, Alan Every, and with you an experience. We had a major project appraised by a very conservative appraiser about six months prior to the election in September of 1990. The project has now been put up for sale because the landlord simply feels that there is no future in this industry. The only offer he has received is a full 40% less than what the appraisal was. That has never been here in Ontario. Not in 1981, not in 1975. When rent review was first brought in, we thought, "Oh my goodness, it is going to affect values." It really has not because in those days, although there was a rent review with which we did not agree philosophically, we were able to live with it. We were able to survive with it. We were able to adjust. But we cannot adjust to the brainchild of this party opposite. This is just totally impossible. We cannot adjust to it. The business cannot adjust to it because it is essentially anti-business legislation.

Ms Poole: The second question I had relates to the use of statistics. We, in this committee, are getting a variety of different statistics about the same subject. I am going to refer to the inflationary component of the guideline, the building operating cost index formula. Under the previous Liberal government, it was set at two thirds, and now, under this legislation, for small buildings under six units it will still be two thirds of inflation, but for large buildings it is going to be 50%.

The Fair Rental Policy Organization has told us, according to its calculations, that the average should be 58%. The Ministry of Housing is telling us it relies on a Royal LePage study which says it should be set at 44% to 48%, so it is saying 50% is generous. We are getting flooded by all this different information. Can you explain the difference in the two approaches?

Mr Reitter: With your permission, yes. I would like to address that question because, obviously, it has been bandied about quite frequently. I can assure you that the average ratio of operating expenses, when looked at as a percentage of income, is closer to 60% than to 50%. It is certainly in the 58%, 59%, 60% range.

One has to ask, how does a reputable firm such as Royal LePage come up with 48%? I spoke to people of

Royal LePage, and I asked them whether my interpretation of their statistics was correct. I said: "I don't want you to badmouth your own company. Just say yes or no approximately." The following is the case:

When Royal LePage, a company for whom I have great respect, as any other real estate company, becomes involved in a transaction with a residential real estate property, they take a projected income. They say, two days' rent is so and so much, and over the next 12 months, taking into consideration certain increases, the building will generate X number of dollars. So they freeze the income into the future. They take a snapshot of the future and say, "This is the income of this building." And then they look at last year's tax bill and last year's utilities, and then they say, "Well, maybe 2% management fee will suffice," and they come up with an operating expense that no longer reflects the same time element that the income reflected. Of course it is far lower than if you took the operating expenses of the same time slot that the income was taken at.

When I discussed that with two members of Royal LePage—unfortunately, I must admit to you that neither of them was instrumental in the preparation of the statistics to which you refer—when I suggested that to them, they said that they had internal conversations; they deeply regretted the presentation of that particular statistic, and they totally and completely concurred with my analysis that when they made that publication, they simply looked into their computer information and said, "Income so much, expenses from last year so much." And it just does not work.

Mr Tilson: Mr Every referred to the fact that statistics have been given to this committee that rent controls do not work, and it has been proven specifically; I assume you mean in New York and other American jurisdictions. The socialists will tell us "Well, look at British Columbia." British Columbia had rent controls. They took rent controls off. They have a speaker coming tomorrow to speak on this subject, that they took rent controls off and nothing improved. In fact, things declined; Rental accommodation did not increase; Builders did not start to build apartment accommodation. Could you comment on that situation?

Mr Every: I would like, first, to refer all of you to appendix 8, that the statement made previously at another session that I attended before this committee—I believe it was Mr Drainville—is totally fallacious and based on a report and conversations we have had with CMHC in Vancouver. Quite the opposite has been true. I would refer you to that appendix that clearly shows that it was a very healthy situation that evolved after 1984 in Vancouver when controls were dropped. The vacancy rates rose.

Mr Tilson: You are saying that what the government is saying simply is not true?

Mr Every: It is totally wrong, and it is borne out by CMHC's statistics. Phone the individual involved there; they can explain them.

1510

Mr Tilson: Another example of a big lie, I guess. Mr Turnbull has some questions.

Mr Turnbull: Mr Reitter, if you do not mind, could you try to make your answers brief so I can get more in? I would like to explore this question of declining values. It has been suggested—by the NDP, needless to say—that the reason values are declining is because it is in lockstep with other investments such as shopping centres, office buildings and so forth. Could you explain to me the difference between an unregulated market declining, and its relationship to vacancy rates, and something which is a regulated market where we do not have that same vacancy rate?

Mr Reitter: I will try. This is a very big question to answer as quickly as you would like me to answer it.

Mr Turnbull: Yes, I know.

Mr Reitter: I will try, though. If you have a regulated market, that regulation, by virtue of its existence, eliminates the new supply. Therefore, the value of the limited product that is still available increases, even beyond its actual value. It increases because the supply is no longer there, and the supply is not there because no one wants to build under the world that the NDP wants to create in this province. On the other hand, shopping malls, to which they have not as yet gotten around, and industrial complexes have been built galore, because no one wanted to put their dollar into residential development, so everybody built shopping centres, office buildings, industrial complexes. So we have office buildings in Metropolitan Toronto averaging about 8% to 10% vacancy factor. Industrial, in some areas of the city the vacancy factors are horrendous. Everywhere where the free market is still operating, we have vacancy rates, and we have landlords competing with each other and being good landlords. In the residential controlled market, the moment they started with the controls, that was when the investment dollar froze up.

Mr Turnbull: Also the suggestion is made by the NDP that those people who are losing money in apartment buildings simply made a bad buy, and it seems to me that in most cases the people were buying it at 40% of replacement cost. Could you comment on that?

Mr Reitter: Of course, a suggestion that those people who are now losing money simply made a bad buy is absolute nonsense, because we bought at a time when we had an opportunity to analyze the regulations and the conditions of the legislation in the market, and when we bought, all of a sudden a drastic, fundamental change came about. Let me please—and this is going to take 45 seconds—tell you a little story that I experienced when I met with the NDP's then Minister of Housing.

When I had realized that his eyes began to glaze over and he was no longer interested in anything anybody had to say, I thought to myself "I have to wake this man up," and I said to him: "Mr Cooke, let me propose to you one simple scenario. You and I sign a contract, and you know me, Bert Reitter, to be an honourable man and the company I represent to be an honourable company, and that contract bestows upon you, Mr Minister, certain benefits, and you finally can do what you have always dreamed about doing. You can go and buy the house for yourself and your family that you have always wanted. You clean out your bank account, you sign a mortgage because you now can do that, you signed a contract with an honourable man, and you move your family into this wonderful new home, and

you have just put the last piece of furniture in place when there is a knock on the door." I said, "Mr Minister, there is a man there that you have never seen before and he says to you, 'I am sorry, but I just took over Bert Reitter's job, and the contract that he signed with you is null and void.'" I said, "Mr Minister, you are going to say to this man: 'Just a minute. I have just cleaned out my life savings and I have put my name on the line for a contract, for a mortgage that I won't be able to live up to. You can't do that.' And the man will laugh at you and say, 'Watch me.'"

Mr Turnbull: Of course, Mr Rae suggests he wants partnership. This does not engender partnerships.

Mr Reitter: Some partnership, I say.

Ms Harrington: It is, at this point, quite astounding that you have not yet come to grips with the reality of this province, and that is—

Mr Reitter: I have not? You have not, Ms Harrington. Your side has not come up to the reality.

Ms Harrington: I am sorry, but I have the floor at this moment.

Mr Reitter: By all means. I apologize.

Ms Harrington: The reality is that the government of this province believes in rent control. Now, the Conservatives started rent control. The Liberals continued a massive abuse of this system, and we have believed that we have to correct this situation.

Ms Poole: Mr Chair, on a point of order: In this committee we have tried, in so far as it is possible, to keep this non-partisan, but if the parliamentary assistant keeps making such outrageous statements, then I am afraid it is no longer going to be a non-partisan forum.

The Vice-Chair: Unfortunately, that is not a point of order. Ms Harrington.

Ms Poole: But it is a point of view.

Ms Harrington: I believe that you do not want to work with this government—

[Failure of sound system]

Ms Harrington: —with us, as a government. I wondered what your objective is in this, and the only conclusion I can try and come to is that you are trying to stop investment in Ontario.

Mr Reitter: That is the most ludicrous statement you have ever made, Ms Harrington.

Ms Harrington: If the media and/or the—

Mr Reitter: Let me tell you why we put this ad in the paper.

Ms Harrington: I am speaking, Mr Chairman.

Mr Reitter: You have asked me a question—

The Vice-Chair: It is difficult for the Chair to decide when you—

Ms Harrington: I will give the gentleman a chance to respond.

Mr Reitter: You asked me a question. Give me an opportunity to answer the question, Ms Harrington.

The Vice-Chair: Please, one at a time.

Ms Harrington: I will give you a chance to respond. If the public or the media would care to read this over, they will see that the objective of this type of advertising is certainly to try and get investment to go out of the province of Ontario.

I would like to point out that the people of this province have confidence in the Premier, Bob Rae. You just have to look. Last night—

Mr Reitter: Absolutely.

Ms Harrington: I am speaking.

Mr Reitter: We are not discussing Mr Rae here. We are discussing your hare-brained legislation. We are not discussing Mr Rae.

The Vice-Chair: Ms Harrington has the floor.

Ms Harrington: During your presentation, I did not interrupt you.

Mr Reitter: No, that is correct.

Ms Harrington: I believe that the people of this province do have confidence in Bob Rae when they compare him, last night even on television, to the other premiers and/or the Prime Minister of this country.

The only conclusion I can reach is that you are trying to wreck Ontario, to go against the people of this province. What we have seen, even last week on the television, that is what happens to right-wing coups who try to go against the will of the people.

Mr Turnbull: They were communists, Margaret.

Interjections.

The Vice-Chair: Order, order.

Mr Perruzza: On a point of order, Mr Chairman: When the Conservatives objected to our questioning some other deputants today, they said no, they did not want hear people, nobody on this side stood up and objected to not hearing from people who had come to make deputations—

The Vice-Chair: Mr Perruzza—

Mr Perruzza: I am getting to my point of order, Mr Chairman.

The Vice-Chair: I was about to rule that you have a point of order, that interjections are inappropriate at all times.

Mr Perruzza: Thank you, Mr Chairman.

Ms Harrington: Thank you. Gentlemen, you have asked for a free-market system, and then you ask for a subsidy, which is certainly not a free-market system. This is total unreality that you are coming with today. You want to charge people whatever the landlords like and expect the taxpayers to give a $1-billion subsidy, and yet you advocate, in this way, a larger deficit. Totally unreal thinking. Or you argue for a larger pass-through. I would like to tell you that in the past there have been lots of pass-through systems and yet the buildings were not kept up. Finally, I wanted to tell you that we are here today to work to amend this legislation to try to make it better, and you are obviously not interested in helping.

The Vice-Chair: Would you like to respond?

Mr Reitter: Was I asked a question? I do not know. I think Ms Harrington made a rather political statement

about the right-wing in Moscow and so on. I do not know; was there a question there?

Ms Harrington: Well, you gentlemen made that remark as well.

Mr Reitter: Was there a question there somewhere along the line?

Ms Harrington: You opened your presentation—

Interjections.

Ms Harrington: They did that, they opened with their presentation—

Mr Perruzza: On a point of order, Mr Chairman: The question was placed. You are allowing—

Interjection.

The Vice-Chair: Mr Perruzza has a point of order.

Mr Perruzza: My point is, Mr Chairman, I did not think this was a session where you were going to engage in debate. Questions were going to be placed to the deputants. The deputants were going to answer the questions and not involve themselves in political hyperbole.

Ms Harrington: My colleague has a question.

The Vice-Chair: Well, it is very nice, but there is not time for another question. Thank you very much, gentlemen, for appearing before us.

Ms Poole: On a point of order, Mr Chairman: Mr Reitter made a comment about the Royal LePage study when I asked him to differentiate why we are getting two different sets of statistics, and he made an inference that there may be some problematic features. Can we ask for Royal LePage to give us a letter to our committee prior to the commencement of clause-by-clause, either substantiating Mr Reitter's comment or in fact validating their study?

The Vice-Chair: I am certain we could inquire as to Royal LePage's intention. I think that would be a reasonable thing for the committee. We could instruct the clerk to clarify those comments with Royal LePage, if possible.

Ms Poole: I would suggest that perhaps we give a copy of the Hansard to Royal LePage so they have a basis for their comments.

The Vice-Chair: Thank you. That is a good suggestion.

1520

SOUTH ETOBICOKE COMMUNITY LEGAL SERVICES

Mr Hale: Mr Chairman, my name is Kenneth Hale. I am the lawyer/director of South Etobicoke Community Legal Services. Our organization has made written and oral presentations a number of times in the past on these issues, most recently concerning Bill 4 and concerning the rent control consultation.

I came here prepared to go point by point in a legalistic way through the proposed Rent Control Act, with which I have some serious differences, but having heard the previous speaker, I think it is important that someone from the tenant side speak up about the blatant untruths and misrepresentations that AFFORD and its ilk are spreading around this province and in fact around the whole continent.

The first thing that is most shocking about AFFORD's approach is its complete disloyalty to our country and its absence of any concern whatsoever for the effect of its bizarre actions on the welfare of anybody in this province except the welfare of those people who manage rental housing.

The blatant untruths in their ads—I am sure we are all aware that financial markets operate to a great extent on rumour and innuendo and things, and not necessarily on the true facts, which I heard very few of. But the blatant untruths put forward in the ad that they published in foreign newspapers as well as in our own financial press—that $20 billion in value had disappeared, that private property is being confiscated—it is just completely untrue.

If you look at what they are proposing, in the end their solution is virtually the same as the solutions that they rant and rave against. Their solution is to sell the buildings to the tenants. The only thing that they are putting these ads in the paper for and appearing at this committee for is to drive the price up. They think the government is trying to drive the price down. They want to drive the price up by removing any kind of control over what they could charge or what kind of conversion could be carried out. So their solution—to make everybody home owners at ridiculous prices—makes them see the mirror image of that solution, of driving down the prices to ridiculously low prices, in the government's modest rent control proposals.

I would think that after a year of the NDP government, one could have seen the rush to abandon apartments already starting. I do not think—there is not one apartment they can point to that has been abandoned because of this government's attitude towards private landlords. There is no property that they can point to that has been confiscated.

I see Mr Every and his friends at CFTO have managed to find a hard-luck story of a landlord with five children being evicted because she could not meet her financial obligations. This is a real man-bites-dog story. These landlords, the members of AFFORD and the members of FRPO, every day are evicting hundreds of tenants, many of whom have five children and more, from rental apartments across this province because those tenants are unable to meet their financial obligations because of the recession, because of the high rents that the rent regulation system permits, and this is not news. However, when one landlord loses some financial investment and is put to the indignity and humiliation of being evicted, it becomes a big news story.

Where is CFTO when those hundreds of tenants are being evicted every week? I can assure you that if you go down to the district court, you can look at those lists and you can see family after family losing their homes because of their inability to meet their financial obligations, to pay the rent.

Their position seems to talk about synergism, with the government, the private sector and the public sector working together. I think their vision of that is the private sector ordering the landlord to do something and the government doing it on the landlord's behalf, whether it is raising the rent review guidelines beyond what anybody can pay, whether it is permitting them to demolish or convert at will.

They talk about how poor tenants suffer discrimination, that landlords discriminate against poor tenants. They admit

it and they assume that this is a natural phenomenon. In fact, in the written material they refer to how "naturally, landlords are going to discriminate against poor tenants." Once upon a time, slavery was considered a natural part of the economic order, and not too long ago, women were considered to be inferior as a natural part of the economic order. The blatant discrimination against poor people by landlords is not a natural part, but it is a conscious policy of unethical and often illegal conduct. It is only tolerated because the Ontario Human Rights Commission is always in such turmoil and these people cannot be made to account for their illegal and unethical actions.

As tenants finally begin to gain some rights, the landlord community starts talking about destructive class war, whereas before it was just healthy tension. It was healthy when the landlords could win all the time. When tenants have a chance of winning something, all of a sudden it becomes destructive class war.

Their answer to all this is the shelter allowance scheme. They say it would cost $200 million. It sounds like an awful lot of money to me, but I guess to you guys it is not a huge amount of money, and you would be willing to give the members of AFFORD $200 million while letting the tenants' hands touch it, or many of you would. But a study which was done for the Co-operative Housing Association of Ontario and the Ontario Non-Profit Housing Association shows that the actual cost of a housing subsidy scheme such as they propose is at least six times that figure, and perhaps 12 times. Do we really think that Ontario's taxpayers are supposed to pay an extra $1 billion or $2 billion just so Mr Every and his friends will not take out ads in the foreign press? I am not willing to make my contribution to that waste of public money and I think there are very few people who would do it.

I just think it is ridiculous for them to come here and ask that you would give them this amount of money just because they happen to have made these investments at some point in time. They admit that it is impossible to remove rent controls without this incredible subsidy to them, so I think their suggestion that rent controls should be removed should be completely dismissed, and even their suggestion that they should be weakened. In fact, the rent controls that are proposed are not adequate to protect tenants and are not adequate to stop the erosion of affordability. They are going to make it continue that tenant family after tenant family is going to be evicted because they cannot meet the rent payments.

Just a few of the other things that he mentioned, such as the plummeting value of his apartment buildings. We do not see any figures but we hear a lot of talk. This man does not seem to realize that 10% of the people in this province are on welfare and that 10% are not able to pay the kind of rents that he would like to be able to charge them, and this is a significant component of why the values of his buildings are plummeting.

He uses very inflammatory language concerning theft and cheating and things like that. I think what his actions amount to is extortion of the people of this province, and especially the tenants of this province—attempting to extort money out of them with the threat that he is going to demolish our economy or make our apartments fall down or take steps which in any way must be considered to be some kind of a threat.

1530

One of these landlords' favourite things to refer to is the Thom inquiry. I hope you people are aware of enough history to know the Thom inquiry, phase 2, was conducted without tenant participation, that tenants withdrew, boycotted the Thom inquiry because it was obvious where the Thom inquiry was going. It was obvious from the predisposition of the commissioner and his research person John Todd, who I understand presented here, that they were concerned almost solely with ensuring landlords' profits and that the rental housing market kept churning and making money. They were not concerned with the problems of affordability for tenants, except in a peripheral way, "How can we shut these people up so that the landlords can go on making money?"

Even John Todd, the research director, in his brief to you says he believes the rent control system proposed by Bill 121 is basically the same as we have had under the previous two governments. How this man could be their hero, that they could live with the controls under the old government, while this great researcher they have says there really is not any change—how can they reconcile those? They cannot. It is rhetoric. It is nonsense. They have taken an extreme position to try to get you to move off the very reasonable position tenants have that this does not provide adequate protection to them.

Mr Todd's study, which I understand many people found to be quite interesting, found that stability of rent increases, protection from economic eviction, protection from discriminatory rent charges were the results of strict rent regulation. To me, that was a good thing. Those are things which should be supported, and should be supported at substantial cost to the landlords if necessary, but he concludes that this kind of protection should be dispensed with. It should be eased. Again, he brings in the old Thom inquiry answer of bringing in a shelter allowance.

I do not know how many of you read the Financial Times. One short year ago John Todd was writing an editorial in the Financial Times proposing rent cost passthroughs be discontinued, that the guideline rate of 4.6% should be raised by about 1%, and that money be taxed back from landlords and put into investment in non-profit housing. Now the political winds have shifted. He is able to make more money by coming here and saying rent control is bad. But a year ago he was saying it was good and should be strengthened, and yet he has piles of statistics and things going back to the position which is supported by the more conservative elements because that is who is paying the freight now for his kind of studies.

I would ask you to look at the provisions. I think many of the things Joyce Hall raised in the federation's presentation, many of the things other tenant groups have raised, have to be seriously considered: that this legislation does not go far enough and we have to admit there is an imbalance of power between tenants and landlords. We have to do things which will help tenants to organize, to counteract

that imbalance and protect them from the worst abuses of that imbalance at the present time.

Mr Tilson: How do we stop this adversarial system? In other words, you are coming and making, perhaps, disparaging remarks about Mr Every, and Mr Every did not refer to you, but perhaps came in and made disparaging remarks about the other side. Listening to the evidence around the province, this has been one of the major criticisms: that the adversarial system is not going to work. Hitting each other over the head is not going to work. Sitting down and trying to solve some of these very common problems is the only answer. You have asked some questions. How would you propose the two sides become a little closer?

Mr Hale: I represent a lot of tenants and tenant groups and the first thing I always propose to tenants is, let's write a letter to the landlord to see if they want to have a meeting and talk about this problem. Many of these letters have been written. One or two landlords have ever responded to my request to meet. If people feel they are—

Mr Tilson: Can I just interrupt for a second? My question specifically was legislation, not with—

The Vice-Chair: I am sorry, the time is very limited. Mr Abel.

Mr Abel: Mr Hale, would you not agree that decent, affordable housing is a fundamental human right?

Mr Hale: Yes, I do.

Mr Abel: And I am sure that stand is based on some very disturbing experiences you have probably had with some of your clients. In terms of financial stability and quality of life, how have extra rent increases affected your clients? Could you share some of your experiences with us?

Mr Hale: The first effects are eviction because people cannot pay the rent. The second is scrimping on food and other necessities to meet the rent payments because they cannot find the alternatives. I believe every dollar tenants pay to landlords beyond what they can afford costs society money.

Ms Poole: When the federation of metro tenants made their presentation a few minutes ago, they brought up a concern about the way necessary repairs are covered in the act and said they are afraid that a good, slick lawyer could get marble lobbies put through as energy conservation. Do you have any suggestions for that particular section of the act to tighten up some of the definitions, some of the provisions, to ensure they are not taken advantage of but actually do what they are intended to do?

Mr Hale: First, I think the cost pass-through for capital should not be allowed, period. That would solve the problem right there. Beyond that, I believe virtually everything that was passed through under the old system could be passed through under the four criteria that were set out in the legislation. Energy conservation is very broad. One thing that could be done is to put a very clear definition of capital work in the legislation so that regular, everyday, every-month, every-year maintenance does not get bunched up. I think if there is going to be a pass-through and the legislation is going to try to put some control on it, then that definition should clearly be in there.

1540

SHERWOOD REALTY GROUP

The Vice-Chair: The next presentation will be made by the Sherwood Realty Group, Robert Lowe.

Mr Lowe: Mr Chairman and members of the committee, thank you for the opportunity to address you regarding Bill 121. I am a real estate broker entering my 10th year of marketing, almost exclusively, apartment buildings in Ontario. My firm, Sherwood Realty Group Inc., has assisted non-profit, government and quasi-government organizations, in addition to the private sector, to buy or sell sixplexes right up to the larger developments.

My own personal experience in this marketplace exceeds $150 million worth of apartment building sales. We are consultants to all sectors of the business and are regularly sought to assist realtors who need advice on the highly-regulated Ontario rent control environment.

I wish to address three main categories today, though analysing the proposed legislation is akin to tiptoeing through a minefield not knowing what will explode next. These issues are capital expenditures, financing costs, arbitrary categorization of properties.

With respect to capital expenditures, I have brought along a few children's toy building blocks to make a point. I would like you to imagine, if you would, that each of these blocks represents a 30-unit, four-storey apartment building. They are all located adjacent to each other on the same street in your own ridings. The first has average rents of $350 per unit, the second has average rents of $450 per unit, the third $550, and the fourth, $650. You will note that they are all the same size, the same layout, the same number of suites, 30 units, and they have the same roof area. The only difference is not visible. The annual incomes vary from $126,000 to $234,000.

Let's imagine that each building, being the same age and same location, requires a new roof and it has been estimated to cost $35,000. As you know, the proposed guideline contains an allowance of 2% for capital expenditures, and each owner will apply to increase his rent the additional 3% for the next two years under the carryover provisions. We will assume they will not have any reason to expend, during the following three years, the 2% allowance contained in the guideline on any extraordinary operating cost increases or any additional capital expenditures. The point very simply is that each owner will invest all the funds he gets in a rent increase allocated by the government solely to the roof replacement.

Each owner will finance his work by taking out a loan from his friendly bank for five years at 12%, fairly standard rates. The mathematics develop a useful formula which I would ask you to note because it is important in understanding the concept. The formula is: for every dollar of rent increase awarded in the very first year, one can afford to spend $4.02—or in round numbers $4—in capital improvements. Since the maximum increase justified in year one ranges from $6,300 to $11,700, it follows that the owners, under the best-case scenario, can spend $25,200 to $46,800.

You will notice that the owners in the two lower-income buildings cannot afford to replace the roof. The same maintenance standards apply, would you agree? The same rain water leaks in each roof. The only difference in the buildings is the income. When multiplied by this same percentage factor, you get dramatically different increases. You can see how the arbitrary guideline increase will result in the lower-rent buildings continuing to deteriorate drastically while the higher-rent-level buildings will deteriorate at a lower rate. Remember, we have assumed no extraordinary cost increases; no other capital expenditures will be required for a period of five years.

We all know realty taxes have skyrocketed, not to mention the double-digit increases Ontario Hydro already proposed. We have not talked about gas, water and any other maintenance expenditures; we have not talked about anything else that might need to be done to that building. There is only so much money allowed. How does an owner viably survive? The answer quite simply is he will not. If you move these buildings now around the province, take them out of your ridings and spread them around, then all sorts of other macroeconomic issues cloud the issue. But the rate of increase, guideline plus 3%, stays the same. Any prudent person will spend no more than he can repay. Your challenge as a committee is to solve the problem. I will give you a hint: Allow an increase that reflects the actual justified cost of the work with a reasonable cap on any increases in any one year.

If we take these buildings and stack them up, which is basically what a high-rise apartment building is, we have now got 120 suites, but we have the same roof area. We have 120 apartments contributing to the cost of replacing that roof. But you think, "Aha, the larger buildings have it better." Remember, we traded four large lots for one and we now have an underground garage that salt has ravaged. It can never be repaired under this bill's proposed guideline plus 3%. That is the reality. It cannot be; the numbers are not there.

The problem has been defined, the solution provided and the point, to bring it home to you personally, is quite simple: What would you rather have, 5% of your salary or 5% of Premier Rae's? The cost of bread and milk are the same.

With respect to financing costs, contrary to popular belief within the governing party, most apartments are not flipped but are sold as a result of changes in the owner's needs or health. Builders who own many of these buildings are aging. Some die, others want to retire, others must plan for the future and realize that the partnerships formed in the 1950s and 1960s do not work as smoothly in the 1990s. When these owners sell, they require substantial amounts of money, cash, to pay the capital gain and income taxes governments have come to expect and depend on. These funds are usually arranged by the purchaser, who must place a mortgage on the building as collateral for the loan.

It is a fact that mortgage costs over the past decade have been less than 10% about 10% of the time. If a property is purchased today, the odds are nine to one that the interest rates will be higher upon mortgage renewal. How much reserve do you build in? We would have as many answers as we have people sitting around this table. Furthermore, the seller will likely have to take back financing at less than market interest rates to assist the purchaser with the purchase. When these vendor-take-back mortgages renew, they will definitely be at a higher cost.

Something I have noticed: Buildings that have the lowest rents are often the ones that have little or no financing. Tenants of those buildings have already had the benefit of low financing costs. Why does a new owner or one who renews his financing have to continue to subsidize all the tenants in his building when statistically speaking the vast majority can well afford to pay more? Playing this game of gambling with interest rates does not benefit the tenants and more than anything will sound the death knell for apartment building owners.

Even if it is Premier Rae's desire to buy apartments, we all know that the interest costs and increases in rates will be borne by either the residents of the complex, if it goes co-op or non-profit, or the taxpayers of this province. Let's not delude ourselves any longer. You have to pay sooner or later. Why not leave the financing provisions of Bill 4 in place in the interim, or more realistically, reintroduce the previous Bill 51 approach with some control criteria to eliminate abuse? Just because you did not like the act, you do not throw the baby out with the bathwater. There are some provisions that need to be addressed in an economic sense, and this government must recognize that.

In terms of arbitrary categorization of properties, there is no justifiable reason to have two guidelines based on the number of units in the building. I know there have been suggestions that expenses per suite are higher in a smaller building. That is a mathematical fact rather than a basis for determining government policy and legislation. The argument is much stronger to have regional guidelines based on geographical locations or guidelines based on the type of properties.

Town houses, for example, are apartment buildings laid on their side. The roof areas are much larger on a per-unit basis. They generally have individual heating plants and domestic hot water heaters, all of which cost more initially and are much more expensive to maintain than those contained in the single apartment building. Furthermore, some tenants of town-houses pay all of the utilities. Thus, they absorb and are currently absorbing all utility increases directly, including the GST, which will not represent itself in the guideline until 1995, as you are well aware, and are more likely to heed the energy conservation messages touted by various utilities, whereas in others the landlord pays all the utilities. This results in lights being left on when people are out, windows that are left open in the winter and long, hot showers that are the norm.

But in its wisdom, the government has swept aside all of these differences and said the guideline is higher for complexes six units and less. It is ludicrous. It makes absolutely no sense. There must be one guideline for all units, with a flexible increment and a reasonable cap on rent increases. This is the only way that this bill can combine the mathematics of reality with the stated goals of the NDP platform.

In summary, Bill 121 must be changed. Private sector housing must be given enough freedom to make decisions in a fair regulatory environment. Public sector housing

costs have always exceeded those in the private sector. As Bill 121 is presently drafted, apartment owners are playing Russian roulette with all the gun chambers full. They cannot avoid being shot and killed. The government has the opportunity to correct its erroneous actions played out in Bill 4 by now listening to this private sector, subsidizing the tenants in need and allowing the housing sector to get on with what it knows best and can deliver better than any government.

1550

Ms Harrington: Thank you very much for your presentation. I think you have tried to help us along with some suggestions here. I just want to point out to you that there is no way at this point in time that we can correct all the sins of the past legislations which you have enumerated, some of them. We can go back to October 1, as we certainly tried to do, but we cannot go back any farther to rectify a problem that has existed, when you talk about buildings of the same size with different rents in them, that type of thing. We cannot rewrite that history of the Liberal rule from 1985 to 1990. Sorry.

I also wanted to point out to you and various other people who may be interested that the 6% index that was announced last week is something that the minister and the officials will be looking at, how that is calculated with the new legislation proposed. As you know, the 6% was calculated on the basis of the RRRA and we are not entirely satisfied with that.

Mr Mammoliti: There is a question here, Mr Chairman. Do we have time on our side?

The Vice-Chair: No, you do not. Mrs Poole.

Mr Turnbull: Mr Chairman, with Mr Tilson's agreement, I would like to give the NDP time. Here we have an expert, somebody who knows what he is doing. Let them get these questions out.

The Vice-Chair: If you are suggesting they can have your time after Ms Poole, they can. Ms Poole.

Ms Poole: Thank you for your presentation, particularly the building blocks. The simpler you can keep it for members, the more chance that we might actually comprehend what you are saying, so I thank you for that. I do not know what galaxy Ms Harrington was on when she made her comments about your brief being a critique of the previous administration of rent review; I thought it was a critique of the current one.

The question I have relates to the examples you used in your first case scenario about the roof and the four different buildings. When you made these calculations that the maximum increases justified in year 1 range from $6,300 to $11,700, were you taking into account the full 2% that is allowable under the guideline plus the 3%, the full calculation?

Mr Lowe: That is right.

Ms Poole: And were you taking into account the second year that the 2% would be deducted again?

Mr Lowe: That is right.

Ms Poole: And also for the third year?

Mr Lowe: That is right.

Ms Poole: So this is a case scenario of how it would be under the current act where two buildings could afford to make the improvements and two could not?

Mr Lowe: To answer that question and to sort of hit Ms Harrington's question, the difficulty you have is that you are introducing legislation not at time zero, which would be great. I mean, if we started today building a new building, you would introduce a reserve fund and away we would go. The difficulty is that you have to recognize that there are dramatic differences in buildings even if they are identical. I tried to reduce it down to saying they are the same building. So with that recognition, a flat percentage causes problems. You have been hit with that same difficulty when you hear about a 200% increase of a $100 rent. The fact of the matter is it is only $300 when you do the numbers, but the reality is it sounds huge. So that same situation exists, and I think that is what we are trying to say. We are trying to say, reserve all of the possible money that you could possibly put into this one repair, and those are the numbers that you come up with.

Mr Turnbull: Mr Tilson objects to us giving the time to let them make lunatic speeches about communists taking over and suggesting it is right-wing, and I do tend to agree with it, it was certainly—

The Vice-Chair: A point of order, Mrs Harrington?

Ms Harrington: It was the conservative wing of the Communist party we were talking about. Mr Turnbull seems to be an expert here.

The Vice-Chair: Ms Harrington, do you have a point of order?

Ms Harrington: Yes, I did have a point of order. I cannot quite remember it at this point.

Mr Wiseman: Mr Chair, I think we are using unparliamentary language. But I do have a question, if I ever get the mike.

The Vice-Chair: I am not really certain whether it is or not, but—

Mr Turnbull: I am not sure that it is, but in the interest—

The Vice-Chair: You could consider withdrawing it, perhaps.

Mr Turnbull: I am looking at—

The Vice-Chair: Mr Turnbull, will you withdraw the remark?

Mr Tilson: On a point of order, Mr Chair: I do not think he referred to any specific individual as a lunatic, I think he referred to all of them as lunatics, and I do not think when you do that it is unparliamentary.

Mr Wiseman: Mr Chair, I would say that within the confines of the rules of decorum of the House, any implication that members of the House sitting—that constitutes unparliamentary language.

The Vice-Chair: In the interest of getting on with this, Mr Turnbull—

Mr Turnbull: May I suggest the legislation is lunatic.

Ms Poole: I also have a point of order in relation to Mr Turnbull's comments. Would he please clarify who "them" are? The NDP?

The Vice-Chair: Mr Turnbull, would you clarify your remarks, perhaps?

Mr Turnbull: I will clarify my remarks. I am talking about the legislation being lunatic, not individuals, just the sum total of the legislation.

The Vice-Chair: Now you have a minute.

Mr Turnbull: Okay. Mr Lowe, you correctly point out the inadequacy of this legislation in the sense that you have buildings of the same age which have radically different rents. Would it not be correct to say that in fact the tendency would be that the buildings with the lowest rents would probably be the buildings which were in most need in large capital costs?

Mr Lowe: That is right.

Mr Turnbull: And that they would need to put in energy conservation measures and that would cost more?

Mr Lowe: Generally, that is true. That is the difficulty we are trying to face.

Mr Turnbull: If they are going to have this legislation, should they not differentiate in those respects?

Mr Lowe: There has got to be some allowance for the fact that the older buildings, and smaller buildings in general, which were built a number of years ago, are in need of major work. I mean, the buildings were built 30 years ago with steel windows.

WILMOT CREEK HOMEOWNERS' ASSOCIATION

Mrs Hinkley: My name is Ruth Hinkley. The submission before you with respect to the Rent Control Act, 1991, sets out the concerns of the more than 1,000 residents in the owned-home, leased-lot retirement community of Wilmot Creek. Information with respect to the community is given in part II(b) of the submission, and a breakdown of the 1989 maintenance expenses is attached. Part II(a) of the submission relates to concerns the residents would wish to see addressed in permanent legislation following the expiry of the interim legislation January 1, 1993. In part I of the submission I comment on the Rent Control Act.

We applaud the government's efforts to respond to concerns over high rent increases and to reduce the complexity of the current rent review legislation. Then we note our hope that the clarification with regard to the act being applicable to land-lease properties will ensure more rapid decisions on landlord applications for rent increases. It is not fair either to the residents of Wilmot Creek nor the landlord for rent review decisions to be pending since February 1989.

Our comments on definitions in the act mainly concern the term "permanent structures." This terminology is important to the residents, since it is their contention that their single-family homes are not mobile nor is the community a mobile home park. I will speak further to this issue under part II of the submission.

To continue with part I, on page 3 of the submission we question and ask for clarification under application of the act, subsection 2(1), whether because of the repeal of the Residential Rent Regulation Act, 1986, and the fact that this clause is the same as in the 1986 act, does the exemption for those who signed leases prior to May 2, 1985, still apply?

We question also whether under clause 3(1)(b) of the act those persons who use their homes in Wilmot Creek only on weekends, pending retirement, are exempt from rent control.

Support is noted for the time-limited exemption under subsection 3(5), and under rent control, part I, we support the maximum rent clause under subsections 5(1) and 5(2). As well, we support the new 12-month elapsed period for rent increases. Under "Extraordinary operating costs" we ask for confirmation that the 3% is not in addition to the cap on maximum rent. Also we would advise that we believe the landlord should be able to cover these costs within the percentage increase allowed under the guideline.

1600

We are particularly concerned about refinancing costs. In the case of Wilmot Creek, the loan interest for 1989—and this is shown in the statement attached to the submission, $783,152, almost half of the total maintenance costs of $1,700,632. We note too our concern as to financial disclosure by the landlord. Under "Capital expenditure" we have asked for clarification as to consent, but we are aware that your response to this question to the Ontario Owned-Home Leased-Lot Federation was that it applied to only one apartment. We do not consider this can be applied to our type of community and we have provided an example, under "New or additional service," of a current issue. And we note again the need for financial disclosure by the landlord.

Under "Rent chargeable before order" we have asked for clarification and an example. Those of us who reviewed the act had differing opinions on the meaning of this clause. Under the "Cap on maximum rent" we question, as we did under "Extraordinary operating cost," that the 3% cap is inclusive of the extraordinary costs. Under part II of the submission I have noted previously that the residents of Wilmot Creek do not consider their homes to be mobile nor their community to be a mobile home park. This and other concerns which we would see addressed in permanent rent control legislation, or legislation for owned-home leased-land communities similar to that enacted for condominiums, we are putting forward in part II.

We are aware and we express to you our dismay that your committee is not able to deal with these concerns at this time, because the government, as far as I know, has not received the report from the interministerial committee which reviewed the problems in owned-home leased-land communities. There is an urgent need for reform. And in its present form, since the act relates mainly to apartment rentals, it is very difficult for the residents of Wilmot Creek and, I would venture to say, our landlord to determine the act's applicability to our community. We hope it is the intent of the government to deal with the interministerial committee's report and allow dialogue between the government, the residents and the landlords prior to the enactment of permanent legislation.

Along with the requirement for an appropriate category separate from mobile connotation, we wish to see in

permanent legislation a legal requirement within the Planning Act for leased land to be described in accordance with a registered plan of development. At this time the land for which we pay taxes cannot be registered because there are no defined borders. Also, the need for the landlord to register a plan of development would require adherence to municipal standards for roads, sewers and lighting. Better standards could bring about a substantial decrease in the maintenance costs included in the rental package. I have spoken for the need for financial disclosure and note again there is no mechanism to ensure that the residents pay only what they have contracted to pay.

We see, too, a need for easing of resale restrictions. Last, we note there should be a study with respect to the assessment mode for owned-home leased-lot communities which provide amenities such as a recreation building and recreational facilities. The residents of Wilmot Creek have appealed their assessments since 1985. The assessments include a value adjustment factor for the amenities, yet the residents pay for the administration and upkeep of the amenities through their maintenance costs which are part of the rental package. An Ontario Municipal Board judgement has acknowledged that we pay an extra amount when we purchase the house for these amenities. In effect we are paying thrice over for these amenities.

I appreciate very much the opportunity I was given, which I did not expect, to put before you the concerns of the residents of Wilmot Creek, and I thank you for your attention to this submission.

Ms Poole: Thank you very much for bringing the special and unique circumstances of the owned-home leased-lot communities to our committee today. I think I can gather this from your brief, but do you agree that homes in these particular circumstances should be dealt with by separate legislation?

Mrs Hinkley: Yes, I do and so does our association.

Ms Poole: We will be very anxious when the ministry comes tomorrow to ask them about the progress of the interministerial committee. Could I also ask the ministry when they come tomorrow if they could provide clarification for a number of the questions Mrs Hinkley has asked in her brief about interpretation of the legislation for mobile homes and for owned-home leased-lot communities? I think they are unique circumstances and we must make sure the act reflects that until such time as it can be replaced by separate legislation.

Mr Tilson: I think we are all looking forward to the report from this interministerial committee, which has been promised for some time, and hopefully it will not go on too much longer. One further question Ms Poole raised: I believe you asked, at least by implication, the simple question whether you can contract out of Bill 121; in other words, by signing the lease which may be contrary to what Bill 121 says. Was that one of your questions?

Mrs Hinkley: Yes. It says in the bill that this bill is applicable, if I remember correctly, to all rentals, and the same clause is in the rent regulation act 1986. Yet in the rent regulation act 1986 there is a clause that those persons who signed their lease prior to May 2, 1985 do not come under rent control. We have a good number of those in our community, so we have approximately 70 homes in the community not under rent control, who just abide by the terms of their lease, whereas the others are all under rent control. I could not make out from the proposed legislation whether this still applies.

Mr Tilson: The second question I have is with respect to the issue that has been raised by both the owner and the tenant. When the government comes along and says requirements for a sewage system need to be upgraded substantially, requirements for an electric lighting system need to be upgraded, a new road system—substantial moneys need to be spent to undertake that. The tenants say: "If you average that out, spread it out, we can't pay it. We can't afford those increases." The owners are saying exactly the same thing—these tremendous amounts of money required which normally municipalities pay.

Mrs Hinkley: If I could interrupt you, what I have tried to make clear in this submission is that this type of community does not abide by municipal standards. They do not have to build the roads or do the sewer systems in the manner they would have to if they had to submit a development act because it is one large private property. This increases our maintenance costs because the sewer breaks because of substandard material; the roads, instead of being like this, are like this and they break up and—

Mr Tilson: But we have had evidence—

The Vice-Chair: Thank you. Ms Harrington.

1610

Ms Harrington: Thank you very much, Mrs Hinkley, for coming again. I believe I met you before—you were here.

Mrs Hinkley: Yes.

Ms Harrington: You have made it very clear that you, as a group of people in Ontario, want protection just as other tenants—well, you are not exactly tenants—need and want protection. I hope that is getting through to some of the people who are here in this room. You have also said that obviously mobile homes are not mobile so we must not think of it in that way.

Mrs Hinkley: No, they are permanent structures.

Ms Harrington: We are very much awaiting the interministerial committee's report in October, because I think this is a very important issue. It has arisen as an issue in many parts of the province and is very complex. When I think through it very thoroughly, about the problems associated with it, whether environmental concerns, sewers, roads or the Planning Act in Ontario, and ensuring that these kinds of communities are wanted within municipalities, I really think previous governments have not taken the time to care about the people who live in these communities. They have put this issue off until it is almost too late, because there are a lot of people being forced out of their homes and their communities across this province and I do not know whether we will ever get it back as a viable option for affordable homes. I really look forward to working with you to establish legislation which will work.

Mr Mammoliti: Perhaps you can answer one of my questions now. They are not portable, these homes?

Mrs Hinkley: No.

Mr Mammoliti: There is no way of taking them away.

Mrs Hinkley: No more than a conventional home.

Mr Mammoliti: If somebody wanted to refinance, could you refinance these homes and the land, or just the homes and not the land?

Mrs Hinkley: Just the homes. The land is rented.

Mr Mammoliti: So if you went to a bank and said, "I want to refinance; I want to carry a mortgage and I want to add my land and see how much it is worth and all of that," you will not be able to do that, right?

Mrs Hinkley: That is true.

Mr Mammoliti: So if you are stuck, you are stuck.

Mrs Hinkley: In many ways. I know one of the banks is doing mortgages on these homes. Previously we could not get mortgages, but now there is one bank which is allowing mortgages to be taken.

Mr Mammoliti: What bank is that?

Mrs Hinkley: I am sorry, I do not remember which one it is.

Mr Mammoliti: Could you let us know, maybe with a phone call or something?

Mrs Hinkley: Yes, certainly.

NICHOLAS O'NIANS

Mr O'Nians: My name is Nicholas O'Nians. My wife and I own a 12-unit apartment building in Port Hope. I had worked for 32 years with the then Massey-Ferguson Ltd and as a supplement to my pension invested in an apartment building. The building was purchased in 1982.

I have made two submissions on the proposed rent control legislation: the first to Mr Mancini on January 10, 1991 in respect to the interim legislation, and the second to Mr David Cooke on April 2, 1991 regarding Bill 121. Nothing that has transpired since has made me wish to change any of my submissions. I stand by what I stated and herewith resubmit them.

There are three general points I wish to make before moving to specifics:

1. I agree that the low-income segment of Ontario society should be assisted by the government, that is, the taxpayers of Ontario, in the provision of housing, subject to what the taxpayers are willing and can afford to pay.

2. I am deeply ashamed—and I say this with total sincerity—of the enormous national and provincial debt I will be leaving to my children and my grandchildren to pay interest on and try and pay off that debt. I cannot imagine that any one of you here would deliberately incur personal debts on the basis that your children will have to pay them off. Similarly, I cannot forgive you for loading my children and my children's children with obligations resulting from current expenditures incurred in my lifetime. Capital expenditures are a different matter.

3. Premier Bob Rae has recently been very vocal and outraged about the Supreme Court decision which permits the federal government to restrict the increase of transfer payments to Ontario. I cannot recall any similar expression of outrage by Mr Rae when the government introduced retroactive legislation which resulted in many landlords suffering hardship and loss—some, enormous loss. In the same vein, no outrage was expressed when landlords had to absorb the GST on their operating and other capital expenditures. In short, do unto others as you would have them do unto you.

Moving towards the specifics of rent control, I wish to make four points:

1. There has been speculation reported in the press that the NDP government intends to eliminate private rental housing and become the sole owner of rental units. Furthermore, to reduce the purchase price of these units from the private sector, the legislation will be made so oppressive that the sale price will come down and thus enable the government to buy them on the cheap. This philosophy and approach is diametrically opposed to the Ontario and Canadian tradition of free enterprise. If it is indeed your intention to take over private rental units, I hereby ask you to tell me in order that I can start rearranging my personal affairs to be able to support myself in my old age and not become a burden on the state or on my children.

2. As stated in my two submissions, there have been two fundamental flaws in rent control since it was introduced some 25 years ago. The apartment or rental unit is controlled, whereas it is a particular segment of society which needs to be helped. I cannot conceive why any government, particularly an NDP government, would have laws in place which enable the wealthy, yuppies, doctors, lawyers, professionals, business executives, two-income families, Japanese businessmen, diplomats, etc, to live in subsidized housing. I imagine that as these groups are subsidized by the landlord and not the government, this reduces any ideological pain which might be felt.

My contention is that low-income persons should pay what the bureaucracy has assessed they can afford to pay and for the province to pay the difference between that and a fair market rent directly to the landlord. Social support of one kind or another is now so widespread in our society, and the social values have changed so much, that receiving such support is no longer a stigma but a right to be exploited. Adding privately owned housing units to the list of social supports would not upset anyone.

As a taxpayer, I am sure there would be enormous savings if all the social assistance assessment data bases were to be consolidated into one master computer file and client assessment organization. However, I imagine the bureaucratic turf wars and infighting which would result would be a sight to behold.

3. Rent control is inequitable because a small segment of society has to absorb the loss of income resulting therefrom. However, the reality is that rent control is a social assistance program and the cost should be borne by all society through the taxing systems. On the basis that rent constitutes 50% of a person's expenditure, then the other 50% is spent on items which are not controlled. Why, may I ask, should the landlords be singled out? Why do you not have the courage of your convictions and control rents for grocery stores, the cost of food, clothes and beer, which is directly under government control? The answer is simple, is it not, gentlemen? There are only a few landlords and

the public relations machine has been cranked up to make ogres of us and make us ready for the plucking.

4. It has been reported in the press that publicly owned low-income housing costs the taxpayers of the province some $20,000 per year per unit. Funds to build these units come from government-guaranteed loans from banks and other institutions. Do you control the interest they receive for the moneys lent? If not, why not? Why only landlords? This is what it always comes back to—only landlords.

I now come to specific points regarding Bill 121, namely:

1. Application for operating expense increases in excess of the annual rent increase announced by the Minister of Housing are limited to property taxes, heat, electricity, water, cable TV and mortgage interest rises. There are other operating expenses, such as the cleaning of common areas, lawn cutting, snow plowing, garbage collection, etc, which should be included. Garbage collection, for instance, has been subject to enormous increases in the last 12 months as dumping charges have been imposed by local municipalities. I recommend that the list of costs which can be included in the operating cost review should include the above-listed items.

2. In my opinion, capital costs are incurred when the following types of replacements are made: taps, vinyl floors and subfloors, kitchen countertops, toilet bowls and tanks, hot water heaters, furnaces, storm windows, roofs—shingle and flat—stoves and fridges, chimneys and brickwork, etc.

1620

Many of these replacements are a function of age of the building. Many are a function of the attitude of the tenant towards the landlord's property. While it may be possible for the landlord of a new building to save the capital repair portion of the rent increase for the inevitable day when replacements have to be made, owners of older buildings are not able to do so and must do the necessary work now.

The cost of doing identical capital repair work is the same regardless of the rent being paid. There is some premium for the cost of labour and material in Toronto, but basically, as far as I can determine, costs are the same throughout the province. Rents are higher in Toronto because of the cost of land on which the rental building stands. With higher rents the 2% incorporated in the annual increase and the 3% which may be applied are far greater than for a lower rental unit. This is grossly unfair and impractical. This is repeating what the previous gentleman stated so eloquently.

I recommend that for buildings over 20 years old the capital repair cost increase which can be applied be two thirds of the cost above 2% per annum with the balance third being rolled over the next year. The method of calculating the capital cost allowance would be similar to the manner detailed in the 1986 law.

In support of this recommendation the situation in my building is detailed below:

1. The building was built in 1959 by a very reputable builder.

2. The gross rent for 1991 is approximately $70,000.

3. The capital repairs in 1991 include: replacement of taps, apartment 201, $85; replace kitchen countertop, apartment 204, $383; replace taps, apartment 204, $103; a new fridge, apartment 303, $850; repair fridge, apartment 204, $345; painting, apartment 303, $2,100; replace bathroom floor, apartment 303, $125; replace toilet, apartment 303, $250; paint bathroom, apartment 202, $226; landscaping after new drains installed in 1991, $500; repair parking lot, $300; repair bathtub drain, apartment 302, $166; replace kitchen taps, apartment 104, $165; replace insulation and walls in bedroom of apartment 104, $400; paint bedroom, apartment 104, $300; rebuild chimney and new flashing, $1,100; replace tiles with fibreglass tub surround, apartment 201, $500; new fridge requested by tenant, apartment 203, $850, for a total cost of $8,726.

This does not include my labour; say, 150 hours—I hope I am worth $15 an hour—for a total of $2,250.

In summary, the gross rents are $70,000; 2% of the gross is $1,400; 3% of the gross, if approved, is $2,100; total capital cost recover is $3,500. That is only 40% of the actual cost incurred. The actual cost incurred in capital cost expenses is 12.5% of the gross rent. That is a typical year. I have not done these actual things in order to come here and tell you about it. That is what goes on year after year in a 30-year-old building, and your rent increase does not cover it.

Now, what do you want done? Do you want the building to fall down in due course or do you want this building to be maintained? It is as simple as that.

4. I believe the law could be adjusted to eliminate unwarranted capital improvements such as fancy marble entrance halls or Thermopane windows and some of those items.

That is my submission.

Mr Tilson: I would like you to comment on the government's policy to increase non-profit housing and co-op housing. As you know, the operation of it is substantially subsidized by the taxpayer. In fact, non-profit housing is completely funded by the taxpayer. I do not know how the non-profit housing scheme is affected in your area and what effect it is having with respect to private enterprise. We have had testimony that it is even going into competition against private enterprise and causing very serious problems, particularly in the Windsor area. Do you have any thoughts on that?

Mr O'Nians: I know some of the rents are now becoming of the same ilk as private rental. It seems to me that some of the individuals who are going into subsidized housing could very well afford to pay to be in private rental housing. There is one instance I know very well because it is on a corner. The guy has a lawn mowing service. He has half a dozen garden tractors and pickup trucks and trailers outside his place. He has guys who turn up at 7 o'clock every morning and off they go and mow lawns all day. It does not seem to me that guy needs subsidized rental housing.

Ms Harrington: I want to make a couple of points to you. First of all, the people of Ontario do need and want consumer protection with regard to their rental housing. That is a fact of life and it has been so for 15 years or so. Also, we do believe there should be realistic increases in your rent for the owners of the building to ensure that there is a fair return and that the buildings are kept in good

repair. We are working on that. As you know, we have protection and stability of rents on the one hand, and the need for repair and maintenance and fair return on the other. It is a balancing act and it is very important for us to do this correctly.

I just want to point out that many landlords have not been to rent review in the past, that 80% in any one year do not go to rent review. I also want to point out that increases such as the taxes, if they go up, are reflected in the increase in the guideline, which depends on inflation. I think you will agree with me that responsible landlords like yourself plan ahead from year to year and try to minimize their costs and do the necessary repairs on an ongoing basis, which I think you have illustrated.

Mr Tilson: On a point of order, Mr Chairman: I have observed Ms Harrington throughout the afternoon and in other cities and in other parts of the hearings here in Toronto, where she will make simple statements inviting the individuals to respond to that. This individual has just indicated he would like to respond to that. She uses up her entire time with a speech. I think it is incumbent upon the Chair, if she is going to do that, that time should be given to allow these people to respond to these statements, because she is not doing that. She is just going on and on and not allowing these people to respond. My point of order is that if you are going to allow her to do that, you cut her off and allow these people to respond to her statements.

The Vice-Chair: Unfortunately, the Chair cannot decide what an individual member does with her time, but certainly I think that we all have to understand that all members of the committee would like to participate, and really the purpose of public hearings is to hear what presenters have to say.

Mr O'Nians: Excuse me, could I respond first?

The Vice-Chair: I am sorry, I cannot allow that.

Mr Sola: Perhaps you can use part of the time in responding to my question to respond to Ms Harrington's. On page 4, you have a list of items that you call capital expenditures that I think many people would classify as maintenance or repair. I wonder how you differentiate between the two and how you would accommodate that in your budget.

Mr O'Nians: For instance, taps wear out. There are a limited number of times they turn off and on. The threads become worn and loose and the tap becomes loose. When the tap set requires replacing, in my opinion that is no longer maintenance, that is replacement. If a toilet bowl is cracked, for whatever reason, that is a replacement. You cannot repair it. That is a replacement. I do not consider that normal wear and tear, particularly if it is caused by the tenant. In my judgement, anything that needs replacement is a capital expenditure, anything that requires substantial repair is a capital expenditure, anything that can be expected to have a life. I have repaired the parking lot. That has a life of five years. I do not consider that to be a maintenance item. I consider that to be a capital repair.

May I also take you up on your point and reply to the point you made. I do not recall the people of Ontario saying they wanted rent control. What they said they wanted was affordable housing.

The Vice-Chair: The time has expired. I appreciate your coming today.

1630

DAWN MILLER

The Vice-Chair: The next presentation is from Dawn Miller. Good afternoon. You, like the rest of the presenters, have 15 minutes to make your presentation to the committee.

Mrs Miller: I appreciate the opportunity. I have been listening to some of the previous speakers. I can only speak for myself and the 12 units that I am responsible for, 15 adult people. We bought the building in 1987. It had never been to rent review. An elderly gentleman was retiring and he wanted to retire in peace, so that was the reason he sold. We were just married and we wanted to invest. We were planning a family and were trying to plan for our future.

The building was very run-down. The tenants were heating their apartments by opening their oven doors. That was the first thing they all came and told me. There was no hot water. The appliances were so old that they could not be serviced. Painting burnt, torn flooring—that sort of thing, just generally run-down.

We had a maintenance plan, a five-year plan worked out. We took care of the heating problems. No more scorched kitchen cupboards that winter. The hot water problem was solved. The worst of the appliances were repaired, repainted and we fixed the floors that were actually a walking hazard.

Unfortunately, my roof blew off in the rains. Kitchener had very bad rains in July of 1990. The roof went over to the neighbours. Eight of my 12 bathrooms collapsed. It took a month, with $27,000 that we had to get a bank loan for.

My rent review application was frozen and the rents are frozen right now. They are at $378 which is, I believe, very fair for a one-bedroom apartment. I would just like to ask you people to take into account the small landlords who do not have access to great funds and might be suffering a little bit. I am personally caught in a little bit of a bind. I hope to see my way through it. This is my sole occupation and I am just hoping that my furnace does not blow or something like that, because I would not be able to handle it.

The Vice-Chair: Thank you. Mr Mammoliti.

Mr Mammoliti: Thank you, Mr Chairman. I will give enough time for my colleague. I just wanted to ask whether or not you had insurance when the roof blew off and whether or not you had insurance when the bathrooms collapsed. I would assume that the insurance would pick that up as opposed to you having to dish it all out.

Mrs Miller: I cannot honestly say, to tell you the truth.

Mr Mammoliti: That you do not have insurance?

Mrs Miller: Oh, I am sure we did.

Mr Mammoliti: Why you did not try and take that angle to the insurance company?

Mrs Miller: I cannot honestly answer that, I am sorry.

Mr Abel: This was a 12-plex you said that you had bought?

Mrs Miller: Yes.

Mr Abel: From your description, it was in pretty rough shape when you first purchased it, you and your husband. Is that correct?

Mrs Miller: The previous owner was there almost every day, but he was more of a handyman, and instead of replacing or fixing, he would tack things back together. But the major thing was the heat and the water problems.

Mr Abel: You were saying it was $378 for a one-bedroom. Are there any two-bedrooms?

Mrs Miller: No.

Mr Abel: They are all one-bedroom, so it is $378 per month?

Mrs Miller: Now, yes.

Mr Abel: And all of your 12 units are filled?

Mrs Miller: Yes.

Mr Abel: How much did you have to pay for your building?

Mrs Miller: I believe it was $345,000.

Mr Abel: What do you feel is a fair return on your investment?

Mrs Miller: Whatever I could get back from the bank. RSPs—what do they come back at?

Mr Abel: No, no, the money you had invested in this building. What do you feel is a fair return?

Mrs Miller: In rent?

Mr Abel: Yes. In your investment in this building.

Mrs Miller: I think it would probably be around $405 a month rent, if that is what you are asking me.

Mr Abel: No, not exactly. I am sorry if I am not making myself very clear.

The Vice-Chair: If I could be helpful, Mr Abel, I understood the presenter to say a return similar to RSPs, I think. Is that not what you said? So that was her answer.

Mr Abel: Okay. Are you losing money on this investment?

Mrs Miller: We are more or less maintaining right at the moment, but we are not making money.

Mr Abel: I will pass to Mr Perruzza.

Mr Perruzza: I think Mr Abel was basically asking the kinds of questions I was asking. I know that every member on this side of the table is sensitive to this particular deputant and the kind of dilemma and problem that she faces. I know that she is in a similar situation to a lot of other small landlords that took over properties and that, for one reason or another, have found themselves in a difficult situation whereby they are just basically holding the fort. I do not think that anyone on this side of the table is—or I have never heard them draw the conclusion or the inference that every landlord in the province is making large amounts of money on their investments and so on and so forth.

My question to her is: Given the legislative proposals that have been tabled, both in the house and the committee, what kinds of suggestions, concrete suggestions, would you be able to make to us that would enable small landlords such as yourself, who have found themselves in a difficult situation, to be able to address these kinds of issues adequately?

Mrs Miller: I would think there would have to be some provision for unexpected expenses such as this. It was not planned and it had to be done; we cannot leave it undone. I am not sure of the exact wording. Whatever it took to repair it, we should have some system of getting that back, or at least paying the bill; whether you want to put a cap on rent increases or give us two, three years to get it back, but at least to allow us some kind of recompense.

Mr Sola: I think I understood you to say that you are breaking even right now even though your rents are frozen at the moment. Is that correct?

Mrs Miller: Yes.

Mr Sola: When will you be refinancing your building?

Mrs Miller: I believe next year.

Mr Sola: So if your financing costs increase you will be going into the red if everything stays the same.

Mrs Miller: We are hoping to somehow unfreeze the rent application I have at the moment, but there are so many thousands.

Mr Sola: One other question. Has the value of your building gone down since you purchased it, has it maintained its value or has it gone up? Are you left any out in case you cannot refinance?

Mrs Miller: Right at the moment I do not think the apartment situation is very stable in my town. Everybody is waiting to find out what is happening. I have not been keeping up with the real estate brochures that have been coming to me through the mail. I do not know whether I can trust them as to true market value or not. I would not attempt to sell at this point anyway.

Mr Sola: In other words, you may be left with the prospect of bankruptcy if you do not get a chance to recoup some of your expenses?

Mrs Miller: It is possible, yes.

Mr Tilson: Where are your units, Mrs Miller?

Mrs Miller: In Kitchener.

Mr Tilson: Do you have any plans specifically for any capital improvements in the next few years?

Mrs Miller: Not at the moment, no.

Mr Tilson: Why is that?

Mrs Miller: Right now everything seems to have been taken care of, needed immediate concerns. We are thinking about doing our driveway. We might be able to patch it on our own without having to contract it out.

Mr Tilson: Do you have the financial capabilities of taking into consideration the provisions of Bill 121 to redo the driveway?

Mrs Miller: Possibly, yes.

Mr Wiseman: I am trying to dig a little bit into the finances of this. You bought the unit for $345,000. Did you finance the whole amount?

Mrs Miller: Most of it.

Mr Wiseman: When did you buy it?

Mrs Miller: In June of 1987.

Mr Wiseman: Okay. That is interesting. That is good enough. Thanks.

LESLIE STEINER

Mr Steiner: My name is Les Steiner. I am a lawyer and I am the principal of a company that owns four rental buildings in the province and manages a number of others. There used to be six, but two have been sold under the distress conditions that are cited in my submission which was made in November. I am enclosing a copy for you. In order to better use the time, I plan not to read it or read much from it, just perhaps update it and maybe highlight one or two points in it.

Unfortunately, what it talked about, early in its genesis in November of 1990, has in fact happened. Two of the three buildings that this case study refers to in detail have been sold under distress conditions. I will be glad to provide those figures either here or in another submission to follow up on this one.

I want to make a few comments in regard to the capital issue. By the way, this remark about 80% of landlords who have never applied—I want to point out that about 25% or 20%, if we accept that figure, are people who have bought buildings since 1986 or 1987. I think that is a pretty important contingent part of the overall picture. One cannot run to the issue of those who were fortunate enough to arrive in a boat in this country much earlier than I did—which was in 1957—and bought a building 20 or 30 years ago and have long ago paid for it. They are looking at these discussions with quite a different eye than those of us who went into what was supposed to be a superconservative type of investment post-1986 or post-1987 and are now finding ourselves quasi-expropriated by retroactive legislation.

The retroactivity is what my submission talks about. I do not want to dwell on it because the anger is difficult to control. But the retroactivity that was put into the freeze, and in the permanent legislation, is expropriation. It is expropriation without compensation, from a group of people who are unable to respond in any other way than by these talks at appearances or occasional demonstrations. I think I do not need to dwell on it. I speak about it in detail.

That is what caused the distress, that is what caused these post-1986 purchases to have become untenable investments in many situations, both with very small landlords and medium ones and perhaps even in some larger groups of units that were bought in such a way.

The simple thing about the capital issue that I want to perhaps capsulate is that it will become—and these are simply words that came out of the thinking on the subject—a perpetual warfare as to the definition of what is the minimum acceptable in a building. It will be a war fought between the landlords and the tenants with the referees being the municipal or perhaps eventually—and I predict this—provincial inspectors who will be another stage of bureaucracy to decide what has to be done. No longer will the argument be that the landlord wants to do it and thereby wants to abuse the system and pass through increases which were attacked in the past, I think justifiably—the marble argument.

The future fight is what is the minimum that he has to do so that the municipality or, I predict, a future provincial body does not come into his building and take it away by putting it through taxes. That is what the fight will be over, minimality. It will be fought in the trenches of appeals to work orders, as I am already doing and others are already doing. It will be fought about retroactivity or what the municipality calls retrofit, such as better lighting for garages or higher railings for balconies. In a 14-storey building I have right now, all the railings at the two ends of the building are being ordered to be made four inches higher, because the building is a 20-year-old building—not a very old building—but the new building code requires this, so the city of North York—and I am sure you heard all of this so I do not want to dwell on it—is ordering it to be done.

So the future fight over minimal condition will be exactly the reverse of the past. It will be the landlords saying, "I do not have to do that, I should not have to do it," because he cannot pass it through, he cannot pay for it. What he is looking to is his next encounter with the bogyman who has become the mortgage lender. Because now, when you come up for refinancing, the work orders are the least of your problems. The next level of the problem is a new breed of bureaucracy.

We talked about municipal and provincial law. There is a whole new breed already making unbelievable amounts of money in the province and they are the private engineers. You cannot get a new conventional first mortgage unless one of these—we call them rocket scientists—comes into your building and finds whatever he can do. And remember, he is working for the mortgage company, for Canada Trust, for whatever trust company you apply to, so his buyer is not you. He does not care about you. His next job comes from that lender, so the rocket scientist tries to make a report that looks as terrific as it can in terms of locating all the problems.

We just got one today. Today was my first exposure to one of these things and it is ridiculously picky. It gets into issues that no inspector has ever concerned himself with—no inspector. So far, the bill is $100,000. The lender's reaction to this: "Get it done before we talk further. My inspector wants this. I don't care that you don't have municipal work orders."

Or where capital repairs come out all of a sudden—and that is all I want to concentrate on in this highly minimal time—is this warfare which now has new vested interests coming into it, new bureaucracies, new players, ie, these inspectors who want this part of the turf for themselves—and they are bloody well getting it.

Of course, they charge for every one of these inspections. It is the lender who does not pay and the landlord who does.

1650

I am involved with three refinancings. In each case, right in the mortgage commitment, a long paragraph about an engineering report, "acceptable" etc. You cannot pass the cost through, so if it comes off the financing where does it come from? And we are not talking about the landlords, the 80% or the 75% who bought 30 or 40 years ago. Good luck to them; they were fortunate.

We are talking about the unfortunate souls, though many, who came into this picture under rules, rules that were printed. I am a lawyer and I read them. Maybe I was a fool to get involved, but I read them carefully and I knew, and I have to tell you that in none of the buildings,

the 10 that I am associated with, did we ever make an application over 9.5%. This can be verified, and it is in my report as well. So we are not one of the, what I talk about, the abuse of the capital cost gain where in fact people really played it by the depreciation tables rather than necessity. Necessity is easy to decide—what the inspector needs and wants.

What is a capital repair is also easy to decide. The Income Tax Act of Canada, the United States, and every country has dealt with that problem for 100 years. When you put in your tax return, you cannot deduct a capital repair, so the rules on how to arrive at this are 50 years old. We do not need huge expertise. The gentleman may be wrong, the earlier one, about what was or was not, but the rules are out there and they are out there with Revenue Canada if no one else.

So these repairs can come from retrofits ordered, unexpected situations that truly were not expected, garage falling, etc, simple neglect, admittedly, or what I call ma and pa neglect, where you have an old owner who really is a first-time owner and waited to sell and then said, "Let the new guy look after it." That is not so evil, but it happens.

Let me tell you about an interesting new one that I am involved with, because maybe that can show the idiocy of what is going on at the moment, hopefully not after your deliberations on the new law. Number 246 Farnham, at the corner of Yonge, this company I work with bought April of this year conditionally and has since been trying to get into public housing through an allocation, and it is being done through the Homes First society which has a number of projects successfully done, five in the city of Toronto, all non-profit co-ops. An allocation was impossible to this date for this building.

That is not unusual today, but remember this: The building has 92 units of which 86 are vacant and have been for over a year—86 of these units are vacant. That is at Yonge and St Clair. And the holder of the mortgages, the ABN bank from Amsterdam, one of the many foreign investors who are being gored by the retroactivity and by the new proposed rules and who are going back and telling head office—I know ABN is, because I bought it from them through other investors on a power of sale. ABN is going back to Amsterdam and saying: "The mortgage is no good because they changed the rules. Guess what? They changed it retroactively, not forward like we do in Europe, but backwards as of October 1." That is what they are reporting.

In fact, the officer of ABN, the Canadian, who placed this loan on this building has been fired. Because here is what it is worth. Their mortgage is $3.8 million. There is another $1.2 to local investors, not big guys, little guys who give second mortgages, and the building is worth almost negative under the new rules, almost less than a dollar. How I arrive at this is simple. If you take it at full occupancy—never mind the fact that 86 units are sitting there vacant for over a year, and since April since we have been trying to get an allocation to put this into public housing, they are sitting vacant—but if they were fully rented the gross rent would be $578,000, net around $260,000, and the required repairs to put it into ministry standards, your ministry, the Ministry of Housing standards, engineering work has been done, is over $4 million.

To put it into municipal standards—here is the other level of bureaucracy, not the engineering guy, just the municipal, because that is the lowest standard, because we are going to have three standards—is over $1 million. The value of the building before it can be sold is simply the current standard, which is 10% on net income, ie, $2.5 million.

So there sits ABN bank telling its Dutch shareholders, "Forget about Canada," because they are at $3.8 million with the first mortgage. These were not speculators. This was a conservative European bank. And this building was not speculation for them or the owner who had owned it for 20-odd years. They are sitting at $3.8 million and what is being told to them by the experts is, "You're worth 10 times the net income, maybe $2.5 million, less $4 million if you want it into Ministry of Housing standards, or less $1 million to $1.5 million if you want it occupied, if you want the work orders cleared. In other words, it is more than bankrupt and you have more than lost your investment." Forget about the second mortgagors who are Canadians, forget that. But ABN is sitting there with a $3.8-million loan worth approximately $1 million, entirely caused by the retroactivity and the fact that there are no rules to accommodate large capital repairs. Because this building was not left vacant out of some machiavellian speculation; it was done under Bills 111 and 211 under the Rental Housing Protection Act.

It was to be part of a development with Centara, which is the city of Toronto's $300-million partner, as you all know. It was to be replaced offsite so that the building can be absorbed into the development. It was proceeding entirely under provincial law. It was not some landlord who vacated the building and said, "I'll just sit here and maybe all these guys will go away and then I'll have a building that I can rent for more money." No, it was done under the rules. And the ABN bank, in giving its commitment and the loan, and I was not involved in any of that, had lawyers who said, "Yes, Bill 211 allows you to replace these units offsite and absorb the building and, yes, there's no problem in leaving it vacant and that sort of thing."

There are still six tenants in the building holding out for some miracle, and they are actually opposing public housing because there is no payoff in that for them. You cannot blackmail Cityhome; you can only blackmail the landlord.

The Vice-Chair: Your time is very close, so if you would like to draw a conclusion for us.

Mr Steiner: The Minister of Housing has been personally contacted through Bill Bosworth, who is the head of Homes First, and knows about the situation, knows about the fact that 86 units are sitting empty, and the answer was: "We're running behind. We don't have an allocation, and forget the ABN, forget the vacancies, forget this building." So it sits there under power of sale, but there is no buyer. The ABN has yet to digest the idea that in fact $3.8 million under retroactive Ontario law is really more like $1.8 million.

The Vice-Chair: Thank you very much for your presentation today. Unfortunately, there is no time left for questions.

Mr Steiner: I would just like to say, if anybody is interested in this situation, my phone number is on my submission. I would be glad to get questions, and I hope to get them, by telephone, to see this thing proceed somewhere.

1700

RUTH HARPER

Mrs Harper: My name is Ruth Harper. I have spent much time considering what I should speak about today, and I asked myself, "What can I say to this committee so that all its members will understand what Bill 121 means to me?" I decided that I am not going to talk about the gross injustices of Bill 121. I am not going to tell you what I think about my government's plan of intertwining economic and social policies in my province. I decided that it would be of little use to show you financial statements which verify my ever-increasing loss position.

I never did answer my own question, because whatever I say I know will fall on the deaf ears of some people in this room, the ears of people who have no sense of fairness or justice, people who do not honour the commitments of government.

The present Ontario government may make a land claim agreement with the aboriginal peoples of this province, giving them a certain amount of land. Let us suppose that after the next provincial election, the government—not an NDP government—decides the agreement gave away too much land. The government tells the aboriginal peoples of this province: "Sorry, folks. The agreement is no longer valid. Give some of the land back." How do you think the aboriginal peoples would react? Would they not accuse the government of betrayal, of injustice, and would they not be right?

Some time in the future, the government may reconsider the guarantee given to Ontario Hydro regarding the power dam in Kapuskasing. Suppose some time in the future the government cancels the agreement, the guarantee. Would the workers feel betrayed? Would they feel their government had stabbed them in the back, and would they not be right?

In these two examples of retroactive change, I, a landlord, am one with the aboriginal peoples, and I, a landlord, am one with the workers in the paper mill, in that my government has betrayed me and my government has stabbed me in the back. Bill 4 cancelled orders, cancelled phase-in notices, cancelled applications, all cancelled retroactively. Bill 121 does nothing to alleviate the suffering of landlords whose orders and notices have been declared null and void.

In 1988, my husband and I and five other partners bought a 19-unit building that was built in 1913. After some time, we applied and received a low-rise rehabilitation loan of $100,000. In 1990, we received a conditional order allowing us to raise the rent by 25% if we spent $175,000 of our own money. Based on the conditional order, we arranged for the mortgage to be increased by $175,000. With a conditional order in hand, we felt there was no risk in giving a personal guarantee to the mortgage. All the tenants agreed to the planned work. The work was done from May to August 1990: new wiring, new plumbing, new fire alarm system, completely new bathrooms, completely new kitchens, new appliances, new tiling and drywall, new carpet. The new rents were to start January 1, 1991.

When passed, Bill 4 cancelled retroactively the conditional order. An amendment in Bill 4 allows a 15% increase, of which 5.4% is the 1991 guideline and 9.6% is for the capital work. The promised increase of 15.4% is lost for ever. The work is finished. The money has all been spent. We cannot give it back. The mortgage payments are now higher. None of this can be changed. But the government retroactively changed the conditional order which gave us the income to make the necessary monthly payments. We are now losing money and we will lose money for ever. Furthermore, our home is in jeopardy due to our personal guarantee of the mortgage. Bill 121 does nothing to change the situation.

Have any of the committee members invested their life savings in a business and given personal guarantees for the business? Have you considered the risks of entrepreneurship and proceeded carefully? Have you planned and studied the laws and policies of the business? Have any of the committee members faced personal bankruptcy because of retroactive legislation?

As businessmen, we looked ahead, considering all the possibilities, but we never thought of a guerrilla attack into the past. I am under attack. I am victimized because I am a landlord. I am punished for having the spirit of entrepreneurship that built this province, our province. I suffer because I am a small businessman. I have no stocks and bonds or art collection. I do not even have a savings account any more. It is all gone. I and hundreds of other small landlords are not going to survive. My government sees myself and other landlords, they see our demise and they do nothing through Bill 121 for us. My government buys tenants' votes and support with the economic ruin, through retroactivity, of landlords. I did not know that Ontario is becoming one of those countries where vote-buying is routine practice.

Earlier today—and that is one reason I arrived a little bit late—I was at the home of a couple. I just met this woman, but I had heard a lot about her from a mutual friend. Her name is Esther. For over 25 years she and her husband worked very hard to support their family. She was in hairstyling. He is a painter. They are not the fat-cat landlords whom some politicians call leeches in our society. They are what I would call very hard-working people. In 1987 they bought a 70-unit building. In May 1990 they finished $250,000 of capital work. They received an order for a 17% increase effective from October 1, 1990. Their mortgage was due in December 1990. Manulife gave a verbal commitment for a $1.65-million mortgage. They cancelled the mortgage commitment after Bill 4 was announced. Because of the retroactive changes, this couple could not get a new mortgage. The building was sold for $1.61 million under power of sale. This is the same building that was appraised in December 1990 for $2 million. Not all of the

mortgage money was covered by the sale price, so the family house, on which there was a mortgage guarantee, was at stake. Today, at noon, that is where I was, because that is when the sheriff's notice to vacate became effective, noon today. They were given it on Thursday past at 1 o'clock.

I do not know if any of the members of this committee have ever been with a woman who has five children and who has lost her family home. It is not easy. The five children have lost the only home they have ever known. Retroactive legislation has given them no choice but welfare. But the family has lost more than their business and their house. Like so many of us, they have lost trust and respect for their own government. How does Bill 121 help this family keep their home? How does Bill 121 help anyone who has been punished retroactively? Bill 121 does not address the issue of retroactivity because my government wants to ruin me and landlords like me.

I implore my government to reconsider the unjust effect of retroactive change. Restore the faith and trust of small businessmen in their government. Demonstrate that your government does not need to buy votes. Give security to all minorities by not persecuting one minority. Show us that Ontario has honour, justice and fairness. I beseech you to give us our province unfettered by the tyranny of the majority.

Ms Poole: Thank you very much for coming today to tell us your story. I am afraid words cannot do very much for you in this situation. What you need is action. You are one of the victims of Bill 4 and you are in jeopardy of losing your own home and losing your life savings. What could the government do for those people in Bill 4 that would give you enough that you could reverse this situation and be able to survive? What would they need to do for you?

Mrs Harper: Many of us in this position were hoping that something in Bill 121 would address the retroactive cancellations. Of course, it can take various forms, whether it is reinstating increases, perhaps caps so that it would be increases over three years, something where people could at least manage. This is not a matter of making a profit; this is a matter of being able to make your monthly payments, utilities, mortgage and taxes. Unfortunately, in my own case we have everything on the market. This one building I spoke about, the offers we get, we would have to pay people. That is the one where the conditional order was cancelled. We have been holding our own so far, but it is not going to last much longer.

Ms Poole: Maybe the witness could just take a moment, Mr Chairman.

Mrs Harper: One of the reasons that Esther's position really affected me so much is that I know I am probably going to be there in three months. It is just so upsetting. She has been in that house for 18 years. I think I have been in mine for 12. How do you explain to little children? I do not know. We did not break any laws, we did not do anything wrong.

1710

Mr Turnbull: You tell such a moving story.

Mrs Harper: I am sorry, I did not mean to.

Mr Turnbull: I understand. I feel as outraged as you do. You asked the question of the committee, how many of them had put their life savings at stake and taken risks heading up businesses. I came to live in this country in 1969 and I took those risks and I reaped the rewards. Sometimes things did not go as well as they should have, but I never ever believed that in this country we would have a government which would by legislation wipe out my life savings. I am absolutely outraged.

Quite frankly, there have been several occasions during these hearings that I have had to leave the room because I was so angry, after I had questioned some of the people about this legislation. I cannot believe the NDP does not understand this is the truth. I cannot believe they do not understand it. Maybe they subscribe to this idea of the greater good—there are more tenants than landlords—but it is absolutely wrong. I implore you, speak to every newspaper, speak to every television station and tell your story in the way you did it today, because I know it is the truth.

I understand the business you are in, but unfortunately we cannot seem to get the government to understand that what it is doing is spelling absolute ruin to people. I have explained to them that mortgage companies will not renew mortgages. They do not believe us. I asked for the representative of the Ministry of Financial Institutions to come and give evidence. They voted us down. They did not want that person heard. I am absolutely outraged. I would ask you questions, but I do not think it serves any purpose other than to say I am sorry and I am ashamed that we live in a province where we have this kind of treatment of anybody instead of having rent subsidies to help those people who desperately need it. We know there are people in society who need help. We should be helping them more. Instead, we try and grab votes with crass legislation which absolutely ignores the facts.

Mrs Harper: Thank you for understanding.

Mr Mammoliti: I am surprised that Mr Turnbull would speak in that way. I believe he forgot that his party introduced rent control originally and retroactively.

Mr Turnbull: George, you just do not understand, do you?

Mr Mammoliti: Mr Chairman, I hope this is not deducted off our time.

Mr Turnbull: Tut-tut and make a demonstration. You are driving this lady out of her property. You are taking her out of her home.

Mr Mammoliti: Relax, Mr Turnbull.

Mr Duignan: What about the three million tenants in the province?

Ms Harrington: He is out of order, Mr Chair.

Mr Turnbull: It was never done by legislation.

Mr Mammoliti: Maybe you should take that walk you were talking about earlier. Mr Chairman, just for the record, can you please rule him out of order?

The Vice-Chair: Of course he is out of order.

Mr Mammoliti: Thank you very much. Ma'am, I see that you are distraught. Believe me, we do feel sorry for the families such as the one that you have introduced to us

here and given us an example of today. I know about that because right now I am going through the same thing with tenants in my riding who are forced out of their units because they cannot afford the rent increases that rent review, the Liberal legislation prior to this, has caused them. So I know what you are feeling and I know at first hand how families feel in this particular case. As far as answering that question was concerned, I thought it was important to let you know that.

Second, I want to just touch on a comment you made early in your presentation, that 15.4% is lost for ever. Can you just tell me how much that comes out to, very quickly, because I have another question? Roughly.

Mrs Harper: The rents are roughly—because it was bachelors and one-bedrooms—$325 to $400.

Mr Mammoliti: And the total figure, have you worked that out?

Mrs Harper: No, I did it individually.

Mr Mammoliti: When you invested in your building, was it a long-term investment, as most landlords have done?

Mrs Harper: Yes, actually it just happens to be very close to where we live. We thought it was wonderful because it was going to be so easy to go if there was an emergency, because it was so close.

Mr Mammoliti: Do you think that maybe 10, 15, 20 years down the road you will regain this 15.4% when you sell the building?

Mrs Harper: I do not know. Let me put it this way: I will buy you a pizza if we have it in January and we have not lost it. I am not being funny.

The Vice-Chair: Thank you. We appreciate your presentation.

Ms Poole: While we are waiting for the next presenter to get herself settled, might I ask the ministry for a point of clarification tomorrow? We have just had the situation of conditional orders raised before the committee again. Could the ministry please clarify how they fit into the Bill 121 scenario? Since they did have a 15% rent increase allowed, would they also be allowed an additional 3% on top of that for the two years, or are they simply out of luck? I would appreciate that information.

The Vice-Chair: I think I saw a nod of agreement.

1720

EAST YORK TENANTS ASSOCIATION

Ms Donovan: My name is Mary-Joe Donovan. I am the chair of the East York Tenants Association and I am here to speak on behalf of many of the tenants of East York and elsewhere. Our members have expressed their opinions in the submissions they made on Bill 4, and I have another three that have to be photocopied and left here later. Many of our members have sent in individual briefs and I know one who has made a presentation here. Their opinions vary from outright rejection to total acceptance of this bill, but I think the majority of their thinking is in line with what I am about to express here.

I have read a lot of briefs. I have read a lot of material on this bill. I have attended a lot of meetings and had a lot of discussions and I have done all this in an effort to try to moderate my opinion, but unfortunately I was unsuccessful. There are three or four good things in the bill. Financial loss provision being left out is one of them, and a couple of other things you have already heard about. But I would have loved to come here and congratulate my friends and tell them what a great job they have done, but I am just not able to do that. Instead of praising this bill I have to query it.

The people who worked on it I am sure did so with earnest good intentions, but they were working at a disadvantage because they were steeped in all this old rent review garbage. They should have had a chance to go away and cleanse their minds and erase their memories of all of that before they ever started to write a bill on rent control, because this is not a bill on rent control; this is revised rent review. I am just really weary of the whole thing, as you can probably see. I am weary, I am disgusted, I am fed up, because there is a continuing injustice going on that has not been addressed.

Affordable housing is not addressed in this bill. This is not going to give us any affordable housing. Landlords and their spokespeople in the political arena have said, "Leave everything alone and the marketplace will solve all these problems." There are big buildings sitting half empty because the landlords refuse to lower the rents to the point where they are affordable, and they are not about to. They still want $1,200 a month even though nobody can afford it and they have a couple of hundred units empty.

There has just been too much vertical thinking. The disastrous legislation of the past has just been modified and adopted and used in this bill. What we really needed was some dynamic, creative, lateral thinking, a whole change of direction. I have a number of proposals that I could make in this regard, but I cannot give you anything but the bare bones of it and of course it would likely be rejected out of hand if I did not develop it completely. That would take a couple of hours, and we do not have that much time.

Every person in this room and every person within the sound of my voice knows that landlords will not do anything unless to fail to do it would have a negative impact on their financial position. In an age of godless materialism, where the almighty dollar is the prime motivating factor, we are going to have to approach this problem in the light of that reality.

If a landlord can apply and justify an extra 3%, why should he get the 2% without any justification? For that matter, why should he get the inflation guideline without any justification? This bill, once again, is a make-work project for tenants. Why is the onus on the tenant to make sure that what should be, is?

They are going to be inundated with applications and meetings and having to make responses at the whim of the landlord. If indeed the inflation guideline can be disallowed for cause, why is it allowed at all? Why is the investigation not done prior to that?

What I would propose, if I had the time to develop this, is a whole new system. Bill 4 would have to stay in place for a couple of years. Get rid of a couple of things in it that should not have been there in the first place, and develop a

whole new system to deal with this problem instead of just going on in the same old way.

I did not bother to type this out. I am getting tired of typing out nice, neat, eloquent briefs that people glance at and throw in the garbage. I want something done. I want to have a meeting with the Minister of Housing and I want to develop this whole proposal verbally. If I am given to understand that there is any real interest, if there is any hope that this government will refrain from its obduracy and do something constructive about major revisions to this bill, then I would be very happy to put a hundred pages of typing on the table.

In order to implement what I am alluding to, the rent registry would have to play a very important role. The rents should be checked back to 1970. This is just silliness. There are all sorts of illegal and inflated rents there that should not be there, and they are being added to every time there is a guideline increase.

There are a few things I would like to say about the procedures. In the first place, no rent should be increased until 30 days after the order has been given. The first rent date that falls after 30 days should be the date of the increase, and it should be in the order.

The tenants should be given an opportunity to make their information known in advance of an increase, not have to turn around and fight the landlord at every turn to prevent an increase or to recover an overpayment of rent, all of these things that go on and on. Tenants go to work and they work hard all day; then they have to come home and deal in an ongoing way with all of this stuff.

I think that sympathy for weeping landlords is a lot of bull. I feel just as sorry for people who are having difficulties as anybody else, but let's get real here. What about the thousands of tenants who are too exhausted and disheartened and overburdened with all of this garbage to even speak on their own behalf, let alone cry? They just go plodding wearily along wondering whether they are going to have enough money for food after they have paid the rent.

The main thing I want to say is that this bill has to be changed. It is certainly not acceptable the way it is. It does not do what it is supposed to do. The injustices remain. The bureaucratic nightmare remains. Every time I make a proposal for some really significant things that would benefit tenants, I am told, "Oh, that would be a bureaucratic nightmare." I do not know of any worse bureaucratic nightmare than we have been putting up with so far.

Mr Rae in his victory speech referred to the fact that it was a humbling experience. I think it is time for him to show a little of that humility that he gained through that experience and have the courage to abandon this bill and start from scratch and do the thing right while we still have the opportunity to do it right.

This is a dark world. It is full of greed and corruption. It is up to Premier Bob to be a ray of light for those who dared to hope when they elected him.

Mr Perruzza: Have you tried to contact the minister?

Ms Donovan: No, I have not spoken to the minister yet. I hope that through the good offices of Mrs Harrington I maybe will be able to have a one-on-one discussion with the new Minister of Housing. I did speak to her briefly at the United Tenants of Ontario conference and we had some enlightening thoughts to share at that time. But I was just mainly kidding her about getting back into cabinet. I did not know they were going to punish her by giving her this Housing ministry.

Mr Perruzza: So you have not tried that venue. That may be something that will happen. My other hope is that you would put your ideas down on paper and get them over to either Ms Harrington or somebody from the Ministry of Housing, because I am sure they would be weighed. I know that part of this exercise, as my Liberal and Conservative friends will acknowledge, is that we are here to listen. If creative, innovative suggestions come forward on where we could strengthen our legislation, I think they would be welcomed by all parties and not just by the New Democrats on this side of the table.

I know that you were in the room when the former deputant made her submission, Mrs Harper, and she talked about a friend of hers who is about to be ejected from her home today. How would you respond to that, sitting on the other side of the fence? Is this something that you had envisioned? When this type of situation happens, how should we be dealing with it? Should we be just simply kicking them out of their homes, taking their homes away if that is what it comes down to, or should we be responding to these kinds of situations on a case-by-case situation and dealing with it in that way?

Ms Donovan: Everything should be responded to on a case-by-case basis when it involves family dislocation. This is really dirty pool because the landlords' lobby have gone out and combed diligently the whole province for two or three landlords who would come in here and weep all over the place and get your sympathy. Never mind about them. What about all the other ones who are laughing all the way to the bank?

These people deserve some help and some consideration but that does not change the basic problem here, and that is that we need affordable housing for the millions of tenants in this province.

1730

Ms Poole: Mary-Joe, you seem quite different this time around than last time around. You do seem very disheartened. Can you just give us the bare bones of the new creative way you think it should be dealt with?

Ms Donovan: It is not possible. I cannot do it in two minutes. It would take me an hour. I would be very happy to meet with you and tell it to you one-to-one also, but until I know that the new Minister of Housing is willing to intervene, despite the need for cabinet solidarity and all that political garbage—I do not care about that. We have to do something now, before it is too late, and if the Minister of Housing responds favourably to what I propose to her orally, then I will sit down and put it on paper. I do not want to spend all that time and effort putting something on paper that is going to go nowhere. If I see that I am getting a positive response to it, then I will put it on paper.

Ms Harrington: I would like very much for you to meet the new minister, and I will see if I can arrange that.

Just another point of clarification. You mentioned your brief goes into the garbage. I would like to show you. These are Hansards and the record from April. I read your submission at length into the record. You have some powerful quotes, and thank you very much.

Mr Mammoliti: Mr Turnbull, no questions?

The Vice-Chair: Let's not tease the bears.

Mr Turnbull: Are you the Chair now, George?

PETER MILLER

Mr Miller: My name is Peter Miller. I live in Waterloo. I am a landlord and I am also a lawyer, which puts a different light on my perspective a little bit.

In my practice I deal with landlords and tenants, and I have had my most successes with tenants, because that is where the legislation is a very fertile field. I had an opportunity to listen in to a presentation on the committee three weeks ago, and on the way home I was very disheartened with what I gathered is the attitude of the government.

I have read through the Rent Control Act and the explanatory things. It is this thick, it takes hours to read. Even from a legal perspective it is a big minefield, and all I could find was that it seemed to be a very negative piece of legislation and a gold-mine for tenants who wanted their rents reduced. Every time I read further in the act, there was another section that, "If a landlord does this, we can freeze his rent or reduce it." There was never any provision in the legislation that if a landlord does something nice, he is entitled to a little reward.

The capital expenditure provision is a nice area for a lawyer to get very interested in, because the landlord is entitled to a capital expenditure if he replaces it at the right time. If he does it too soon, it is premature, it is disallowed. If he waits a bit too long and it breaks, it is neglect and it is not allowed. Where do you fit that nice thing, that it is now time to replace something, and this is the time you can get it?

There are caps on increases for landlords, but there are no caps on decreases that the minister or the ministry can impose on reductions. If they find there is a reduction in cost, the rents can go down 100%. That is unlikely, but that possibility is there. If the costs go up 100%, you get 3% extra. Where is the incentive for a landlord to do anything?

It seems that the Ministry of Housing is going to create another bureaucracy with inspectors and inquisitors, and every time they find something, the landlord gets hit on the head. There is nothing in here that ever hits a tenant on the head for creating the mess.

I personally had to deal with some undesirable tenants. The criminal courts threw one of them out because he threatened another tenant in the building. They therefore decided not to pay rent and I had to evict them. My superintendent helped them move, and he was rather upset, saying, "These guys get"—between the man, the woman and her daughter—"around $2,000 in welfare payments, disability benefits." They brag about the fact they do not buy food, they go to the food bank and get food hampers. They do not pay their rent. They left the place a mess. They would not let me show it to new tenants. It has now been empty for one month while we cleaned it up and tried to find someone to rent it.

When I read the legislation, if clients come and ask me, I will tell landlords to sit on it and keep the place clean and not do anything. I do not know where the housing area is going, and my view is that landlords are going to sit back and do nothing. They will follow the law and basically leave it there.

What I always find very interesting in rent control legislation is that the government always exempts its buildings from rent control. It cannot live with it, but the private sector has to live with it.

My building is in a lower-rent area and a lot of my tenants apply for subsidized housing, and on a regular basis I get calls from North Waterloo Housing Authority inquiring about the tenants who have applied. The staff who phone to ask have been very candid with me. They are screening the tenants. They do not want tenants who do not pay the rent, they do not want tenants who are messy and they do not want tenants who are a nuisance. If I tell them any of those things about the tenants, they get to the bottom of the list and I think that is where they stay. It seems that if the government is out to help tenants, it does not want the dead-beats or the ones who create the problems. These are the buildings that are not subject to rent control and the government can charge these tenants, once they are not subsidized, the market rent, and that the government determines on its own authority.

The other thing that really gives confidence to landlords is the letter from Will Ferguson, MPP Kitchener, which I have provided to the committee. I happened to find one on the floor in front of the mailboxes. When I read that, it says great, this is the MPP for tenants, not for landlords. He has actually told me about one ruse under the old system I had never heard of. As for the nice comment he makes, "Landlords will be provided with enough money to ensure their buildings are maintained," I fail to see how. If anything goes wrong and it has to be replaced, you do not get your investment back to fund the next one.

My main concern about the legislation is that it seems to want to insulate tenants from the real world that all home owners have to deal with, increased costs of everything, such as tradesmen. Nobody ever tells them, "Your taxes can't go up," or "Your tradesman can't charge you double what he charged you last week." My concern is, what about the rest of us taxpayers who have to subsidize something? Where is the money going to come from? I know this year, with the crunch in housing and lack of rent increases, I am not going to be paying as much tax as I did last year.

The way I see it is, if the landlord has no money, he cannot comply with the act, and the act says if he cannot comply with it, your rent goes down. It is a vicious spiral downward, and I have no idea how the government expects landlords to keep up their buildings to make them a nice place to live with the proposed legislation. Those would be my comments.

1740

Ms Harrington: You tried to compare the Ontario Housing Corp with the private rental market and said that

we could charge, I believe, whatever we wanted. Is that what you said?

Mr Miller: Yes.

Ms Harrington: I cannot quite fathom how you could compare the two systems of housing. In the Ontario Housing Corp there is no capital gain appreciated over the years. I just cannot see how you could compare them.

Mr Miller: I compare them on the basis of the government. If they want to raise their prices because their costs are up, they can do it. The private sector cannot do that. That is how I compare them.

Ms Harrington: I think you will agree that there is a very basic difference in that in the private market there is cumulated capital gain over the period of owning that building. I just think you have to acknowledge that.

Mr Miller: I also talk to tradesmen in my private life and business, and they always rub their hands in glee when they do a job for the government because it pays top dollar, so there is always increased cost in all those jobs.

Ms Harrington: Certainly we have to keep up to standards and hopefully pay a fair wage, and I would hope that private landlords will be doing that as well. I think my colleague also has a question.

Mr Perruzza: I did have a question, but one of the comments the deputant just made I guess excited my imagination and it is something I would like to pursue. It is when you say that when governments are about to award a contract—is that a contract or a job offering?—that governments generally pay more than what the private sector would pay. Do you have any examples of that, because everything that I have seen to date seems to suggest that governments get a far better rate from everything, from office furniture to computer equipment to telephone systems and so on. Where are we paying more than the private sector?

Mr Miller: You are comparing office furniture with work of tradesmen on an apartment building. I do not think that is a fair comparison.

Mr Mammoliti: A point of clarification—

The Vice-Chair: There is no such thing as a point of clarification.

Mr Mammoliti: You allowed a point of clarification earlier.

The Vice-Chair: That was because there was time.

Mr Mammoliti: On a point of order, then, Mr Chairman: In working for Ontario Housing Corp for 12 years and spending 12 years of my life there, more specifically—

The Vice-Chair: What is the point of order?

Mr Mammoliti: —as a superintendent, Mr Chairman, in that particular area—

The Vice-Chair: Ms Poole.

Ms Poole: I am very glad Mr Miller has brought this letter from Will Ferguson, MPP, to our attention. In fact, I think they are cloning this letter for at least a number, if not all, their MPPs, because I have also seen them for Steve Owens and a few others. I would like to bring this to your attention, Mr Chair, because I think it subverts the work of this committee. I will quote you this paragraph:

"Here's how it will work. Landlords will only be able to increase rents above the guideline for substantial increases in property taxes and utilities, and for financing necessary repairs. But under no circumstances will landlords be able to increase rents more than 3% above the guideline limits."

It does not say in here that a committee is studying this legislation. It does not say that it is amenable to amendments. This government has let its agenda be known. They have decreed, "Let it be written; let it be done." So I do not know why we are wasting our time, Mr Chairman, and I thank Mr Miller for bringing this to our attention, because it is quite obvious that you have decided what will be and that is your message to the tenants, regardless of whether there can be amendments on either side to help tenants, to help landlords to live with this legislation.

I do not have any question. Thank you, Mr Miller.

Ms Harrington: Mr Chair, the first line says proposed legislation.

Mr Turnbull: Mr Miller, this question of public-funded housing is something which I am also interested in. I noticed in the last fall session the Ministry of Housing funded a so-called non-profit housing co-op in Scarborough where, if you were to factor it out, the amount of subsidy divided by the number of subsidized units, it was the equivalent to carrying a $235,000 mortgage. You could have bought at the time a new detached single-family home for less than that, and that was just the mortgage portion.

Do you not think it would be more appropriate if they were to spend that money on rent subsidies for people truly in need, which certainly my party believes, that we have got to help those people who are disadvantaged at the moment, that 30% of tenants who cannot afford what they are paying in rent now?

Mr Miller: I agree that the rent subsidy is the most appropriate, and I think the welfare system is there that could administer it at little additional cost.

The Vice-Chair: Thank you, Mr Miller, for appearing today.

Mr Perruzza: Mr Chairman, before the next deputant proceeds, I would like to have a point of clarification, please.

The Vice-Chair: From whom?

Mr Perruzza: From me.

The Vice-Chair: No, who are you going to clarify? Would you like to ask a question of the ministry?

Mr Perruzza: From the Chair.

The Vice-Chair: Of the Chair.

Mr Perruzza: No, that is all right.

Mr Mammoliti: I would, Mr Chair, from the Chair.

The Vice-Chair: Mr Perruzza actually has the floor.

Mr Mammoliti: I am sorry. Mr Perruzza, is it okay if I take it? I just want to ask him a point of clarification. I would just like to know, from the Chair, whether or not the Ministry of Housing, in its practices, would include tendering out on all maintenance issues. Would you know?

The Vice-Chair: That is not up to me. If you would like to ask the Ministry of Housing to tell us tomorrow,

give us notice of that and I am sure they would be pleased to elaborate on their purchasing procedures.

1750

PARKDALE TENANTS' ASSOCIATION

Ms Body: My name is Jeannette Body and I am chair of the Parkdale Tenants' Association.

Mr Poesiat: My name is Bart Poesiat and I am an executive member of the Parkdale Tenants' Association.

Ms Body: In addition to our written submission, which we will be referring to at times, we have a number of other points that we would like to make.

First of all, the Parkdale Tenants' Association is the oldest area tenants' association active in Canada. It was founded in 1970 to respond to pressures on large tenant populations in the former village of Parkdale. Our membership is made up of tenants who are in homes, large apartment buildings, flats in divided houses and rooms in both legal and illegal rooming houses. Our mandate is to help tenants in the area to get organized, to better defend their rights, to lobby for better rights and to represent the opinion of tenants in the area in order to ensure that they be considered as full members of the community by different levels of government.

First of all, we would like to say that we really would have preferred a real rent control act, primarily because this was an election promise given to us by the NDP. In Parkdale over the past 15 years, various rent review legislation has had a devastating impact on our community. We have seen members of the community subjected to harassment, having windows replaced in the middle of winter, having to go down the hall to use the bathroom, having workmen constantly in and out of our apartments, all so that the landlord could increase the rents legally. Of course, the final indignity: So many tenants at the end of the process have lost their homes because they could no longer afford the rent.

It has been a period of time in our community that has seen food banks become the way of providing food for a growing number of families because their incomes will not stretch to pay for the rent and for food. The past year has been especially difficult as rent review decisions that have been held up by the backlog have hit our community.

We think that if the government is going to present legislation in favour of tenants, it has to consider a number of things.

If work is done on a building, the landlord has improved his investment. When he sells the building it will get a higher price; thus, he can finance the work. So the concept of the tenant having to pay is, we think, wrong. The tenant loses money and the landlord has increased the value of his investment twice; once, because the work was done, and second, because the revenue from the building is higher. Until such time as the tenants get a share of the profits, we think they should not be paying extra for anything that enhances the profit of a building.

We do feel this legislation is a lot better than the RRRA. Some examples are the caps on capital expenditures, more stringent provisions for maintenance—including rent reduction—more stringent provisions for reduction in services, provisions against key money, and the fact that a number of rent increases that we did not think were fair are no longer available.

One major criticism is that the Rent Control Act must be universal. We think this legislation will create three classes of tenants.

First of all, with the five-year exemption for new construction, we feel that it will be an élite class of tenants renting those buildings, so it does nothing to address affordable housing.

The second class will be the tenants who are in smaller buildings. We have gone into some detail in our submission about buildings of six units and under. We feel there is no proof to justify this, and we have not seen any research to justify categorizing those tenants separately.

The third class of tenants will be the ones who are in larger buildings. Those are the ones who have been hit in the past few years with major capital expenditures, and Bart is going to talk to that.

Mr Poesiat: I would like to go into a little bit of specific criticism of some of the features in this bill. As Jeannette has pointed out, we are somewhat disappointed that we are not dealing here with real rent control legislation. On the other hand, this bill is a vast improvement over the Residential Rent Regulation Act, which from the point of tenants whom we represent here was an unmitigated disaster.

In terms of capital expenditures, which is still a feature where landlords can get a cost pass-through, the list of expenditures is pretty exhaustive. Granted, there are some restrictions in terms of "unnecessary." In our experience, it is very hard to prove that an expenditure, apart from gold-plating a lobby or building a bowling alley on the roof or a new swimming pool, is really unnecessary. We have examples that abound in the Parkdale area where landlords in pretty slummy buildings put in video-equipped security systems and got hefty cost pass-throughs on that. That could still be possible here. Even though a building is run-down, you could say: "Well, in terms of security, the door locks may be broken, but if we have a video-equipped security system, there we go. It is necessary." So that kind of thing would still be possible, we are afraid, but we hope not, under these particular provisions for capital expenditure.

Another thing we are a little worried about is that there is no definition of "neglect." Capital expenditures done as a result of neglect were something that was already there in the previous legislation, the Residential Rent Regulation Act. I can assure you also, as a case worker who works for Parkdale Legal Services, that it is very rare that we have been able to prove in rent review hearings and appeal hearings that a capital expenditure which clearly was a result of ongoing and deliberate neglect—we have been pretty hard-pressed to actually prove that to the satisfaction of the appeal panel. There are very few cases. There are a few cases—and this is not in Parkdale—where tenants hired an engineer who did a full engineering report for thousands of dollars, but that is something that is pretty prohibitive for most of the low-income tenants in the Parkdale area.

We hope the neglect thing will be firmed up and that it will be a little clearer and not as wishy-washy as under the RRRA. We are worried that there will still be a hefty pass-

through, although on a more gradual basis, for capital expenditures which may not be necessarily as a result of ongoing and deliberate neglect. It is pretty hard to define.

The other thing is the 3% cap. Obviously, from a tenant perspective, living and working in an area where tenants have been faced with rent increases of up to 80% and 90% for all kinds of capital expenditures which were not considered necessary, we are happy with the 3% cap. It is better than nothing. But a 3% increase on top of a guideline increase can still go on year after year. A landlord could phase in his capital expenditures; there is the carryover for the following year in large buildings, and for the next 24 months for the smaller buildings. Also, what prevents a landlord from applying again and again? Tenants could still be faced with rent increases in the range of 8% or 9%, depending on the rate of inflation, year after year. That is precisely something that has to stop from the point of view of affordability for tenants, most of whom are forced—they have no choice—to live in apartments and live in the private sector. People have no choice. They have to live there or on the street. You are still going to see the same effects as what is happening now, especially in the Parkdale area: three or four families living in a one-bedroom apartment because they cannot afford to rent, which again will impact on the building.

The other thing is that there is some kind of division between the tenants in smaller buildings and the tenants in larger buildings, because tenants in smaller buildings will have a 24-month carryover on the capital expenditures and tenants in larger buildings only 12. We really cannot figure why.

Another thing is that we think a capital reserve fund is something the government should have looked at more seriously. We feel that a capital reserve fund, in terms of rehabilitation of the housing stock, would have proved to be a viable solution. I will not go into the details of a capital reserve fund—I only have a few minutes—but it is something that should be looked at. It is something that landlords and tenants pay into—tenants as part of their rent increases—because with the rents going up like this, we will still have a crisis situation.

The other thing on the capital expenditures is that we wonder what has happened to the cost-no-longer-borne provision. Even the RRRA had some vague cost-no-longer-borne provision which was never effective because, I guess, the law did not last long enough. But basically, it is that when a capital expenditure is paid off, the rent comes down again. What is the point of paying for a capital expenditure in rents? Let's say a landlord replaces refrigerators, and eventually this is paid off. Here, it stays in the rent for ever. It is the ratchet effect. The rent goes up and up, even though the capital expenditure is paid off; it never goes down. In this bill, I see nothing about "cost no longer borne."

The other feature that has to do with capital expenditures and new services and facilities is that there is a provision that on the tenant's consent, an application can be made by both the landlord and the tenant that certain capital expenditures can be done in an individual apartment or several apartments, and that the rent there goes up. We see that as having quite a few pitfalls. A tenant can be convinced by a landlord, for instance, that his apartment is going to be made nice, much nicer than his neighbour's. Sure, he is going to pay $20 more rent in a month, but what the heck, he is going to have a nicer apartment. Well, that apartment will be less affordable. What about the next tenant who is poorer and who comes in there and cannot afford that? You are going to have a series of apartments which, through a buddy system with the landlord, are going to be less affordable than others. We have some real concerns with that.

To some extent we believe that the provision in this act for tenant applications for rent reduction is somewhat of an improvement. But we see some problems there, too, especially in terms of inadequate maintenance. That is badly defined.

Finally, the maintenance provisions in this act are an improvement, but we have some problems with there still being a reliance on city work orders, and we have had a bad experience with the city of Toronto. I am not making any bones about that.

There is a provision that government inspectors for the Ministry of Housing will be hired, and that is good, but it does not say how many. Is it going to be two? One for all of Ontario or is it going to be 30 or 40 or 100 or 200?

Those are our concerns. I could come out with a few more. There are more offences with fines in this act than before, and that is a good thing. But we still hope there will be more proactive enforcement of this act; for instance, in terms of unlawful rents, which will be a big problem and always has been. Thank you very much.

1800

Ms Harrington: I will directly take back your concerns with regard to the maintenance, the capital reserve fund, the costs no longer borne and the consent provisions, plus the other things you mentioned.

I wanted to talk very briefly about your very first paragraph. You said that tenants should be considered as full members of the community, the whole idea, and this was mentioned earlier today, of changing some basic things in the way people are looked at in our society. A person earlier today mentioned that traditions change very slowly. It is very difficult. Slavery is gone. The status of women has changed in our society. I was trying to explain this change in the landlord and tenant relationship to 40 landlords in my own riding of Niagara Falls, and they laughed.

Ms Poole: Thank you for your presentation. We certainly share a number of the concerns you have raised. I would tell you for your own information that on August 1st I asked the Ministry of Housing for a definition of both "inadequate maintenance" and "neglect." To date, that has not been forthcoming. But I am quite optimistic that tomorrow, after four weeks, it will be provided so we all know what we are working with.

Your points about the double guideline are well taken, costs no longer borne. The question I would ask you about is your comment on having rent controls universal. I suspect here you and Mr Miller, for very different reasons, would actually agree; Mr Miller because he thinks landlords should be on a level playing field with the public sector, and you because you feel that public sector tenants

deserve the same protection. When you are talking about extending rent control to cover subsidized housing, are you also referring to co-operative housing or would you exempt that?

Ms Body: No, that would be exempt because they already have control over the setting of their rents.

Ms Poole: Okay, so, it is non-profit subsidized but not co-operative. Thank you.

Mr Turnbull: It seems to me the statistic in this province is one third of all tenants cannot afford the rent they are paying now. From what I understand of Parkdale, there is probably an unusual concentration of those people who have difficulty affording it.

Mr Poesiat: Yes.

Mr Turnbull: I understand that tenants are concerned about affordability and they want, obviously, the best deal they can get. The Conservative position is that we would target those people who cannot afford their rent at that 30% and directly subsidize them. What you would do is, in each community you would identify what a reasonable rent level was relative to vacancy rates and you would make sure that you topped up their income. It seems to me that would be a more humane way of doing it. But the NDP has a lot of difficulty with it because they say we are giving them money and it just flows through their hands into the hands of the landlord. Could you just comment on that, about helping those poor people?

Mr Poesiat: You are talking about shelter subsidies?

Mr Turnbull: Yes.

Mr Poesiat: We have a lot of problems with shelter subsidy because shelter subsidy would presumably operate in a non-controlled rental market. In a tight housing situation, the rents would go up and up and up, and the shelter subsidy for a large segment of the tenant population would have to go up and up and up as well, which indeed would turn a great deal of money from the public purse into the pockets of landlords.

Mr Turnbull: There is a great deal of money from the public purse being spent on public housing now.

Mr Poesiat: Yes, that is true. But public housing—and that is my next point—creates more housing. We are not convinced—

Mr Turnbull: It is 150% the fault of the private sector.

The Vice-Chair: I am sorry, but we have to limit your presentation. Thank you very much for appearing today.

That completes the work of the committee today, but I would like to remind members that tomorrow we start at 10 o'clock in the morning and we have a working lunch and sit through till 6 o'clock tomorrow night. It will be a rather long day.

Clerk of the Committee: Only till 5 o'clock.

The Vice-Chair: Only till 5 o'clock, I am told. The Chair, again, will have to control the times very carefully or we will get very much behind.

Mr Turnbull: Mr Chair, just one suggestion, in terms of Thursday. We are not due in Kingston to start sittings until 10 in the morning and we are going through to 6 or 5 or so. Would it not be more sensible for us to schedule those later in the afternoon between 9 and 10, and then get on the road that little bit earlier? For those people who have to fly to different places, it would probably help.

The Vice-Chair: I have no difficulty with that suggestion if it is the will of the committee, unless anyone else has a problem with it. But I would remind members that these people have been scheduled for the later time. If they cannot find time in their day to come earlier, then we certainly should stay and hear them. But are there any objections to a rescheduling if that is convenient to the presenters? No? That is fine.

Mr Duignan: If it is convenient to the presenters and if the last person scheduled at 5 o'clock cannot make it, we should stay with this.

The Vice-Chair: That is fine. I think we have agreement.

The committee adjourned at 1806.

CONTENTS

Monday 26 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1473
Federation of Metro Tenants' Associations G-1474
Association for Furthering Ontario's Rental Development G-1479
South Etobicoke Community Legal Services G-1484
Sherwood Realty Group G-1486
Wilmot Creek Homeowners' Association G-1489
Nicholas O'Nians G-1491
Dawn Miller G-1493
Leslie Steiner G-1495
Ruth Harper G-1497
East York Tenants Association G-1499
Peter Miller G-1501
Parkdale Tenants' Association G-1503

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Tuesday 27 August 1991

Standing committee on general government

Rent Control Act,1991

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mardi 27 août 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with an alphabetical list of members of the Legislative Assembly of Ontario.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans c numéro se trouve à l'arrière de ce fascicule, ainsi qu'un liste alphabétique de députés de l'Assemblée législative d l'Ontario.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 27 August 1991

The committee met at 1004 in room 151.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

CANADIAN BANKERS ASSOCIATION

The Vice-Chair: The business of the committee today is to conduct public hearings into Bill 121. Our first presentation will be from the Canadian Bankers Association, Ted Taylor, chairman. Sir, would you and your colleagues like to come to the table. This morning we have allocated one half-hour for your presentation. You can reserve some of that so that the members have an opportunity for questions. We appreciate your coming. Please begin by introducing yourself and your colleagues.

Mr Taylor: I am going to ask Al Cooper from the CBA to do that. I am Ted Taylor, the new chairman of the Canadian Bankers Association.

Mr Cooper: My name is Al Cooper from the Canadian Bankers Association. I am the vice-president. Ted Taylor is the chairman of the mortgage committee of the CBA and president of Scotia Mortgage Corp. We also have with us today Tom Alton, who is a member of the mortgage committee and president of the Bank of Montreal Mortgage Corp, and the person who does all the work, Barb Amsden, who is the director of financial affairs at the CBA.

We did make a submission to you which I believe the committee has been briefed on by the staff on August 16, and it focuses on the six areas of concern we have. Ted will address those in a moment. I might say, just as an introductory remark, why we are here. Banks in Ontario, and specifically the CBA representing all of the chartered banks in Canada, are very interested, of course, in the mortgage market. We currently represent about 50% of all lending activity in that arena, and anything that affects the residential mortgage market and its viability is of consequence to us. Not only are we concerned with the very small as well as large developers, but also those things that affect tenants, as they are also our retail clients.

Therefore we are very interested in assisting the committee to make a more viable and workable solution with respect to the issue of rent control in the bill that is currently before you. With that, I will turn it over to Ted to elaborate slightly on some of the points that were made to you in our submission of August 16.

Mr Taylor: It is certainly very good of you to invite us to discuss our paper and our views on the new Rent Control Act. As you are aware, our primary reasons for doing this submission on this subject are due to our involvement with the financing of projects for landlords. We are also very interested in ensuring that the quality of housing in Ontario remains at a high standard and in looking after the needs of all the people who are renters.

Lending for apartment buildings is largely driven by the projected net income the property will generate. If there is insufficient cash flow to cover debt servicing, a project is unlikely to be proposed by a developer or purchaser or financed by a lender. We are proposing some modifications to certain sections of the act which we believe will benefit both renters and landlords.

Our major concern at this point in time relates to capital expenditures. As indicated in the green paper relative to the legislation, it is estimated that by the year 2000 between 188,000 and 235,000 rental units could be in need of major repair, at a cost of between $4 billion and $7 billion. While the new guidelines should provide coverage for minor repairs, we are very concerned about difficulties landlords and lenders may have when it comes to required capital expenditures for projects such as underground parking structures, which require considerably greater preventive maintenance and/or repair than can be financed with the proposed cap and carry-forward period.

The proposed legislation may require that a major garage repair be broken down into a series of projects spread over many years at potentially much higher costs and greater inconvenience to tenants. We are concerned that the financing will not be available if the cash flow cannot support the additional financing costs. It is obvious that such projects will benefit the tenants for 20 years or longer.

The CBA's position on this is that for major capital expenditures which are required to ensure the safety or structural integrity of the property, rent increases above the norm should be allowed to cover these costs without the need for a carry-forward provision. We are suggesting that a change be made to part I of the rent control legislation.

Moving on, there is a certain word involved with the capital expenditures, the word "neglect." We believe it is a bit nebulous in the legislation as it has been drafted. What we think should be done is for you to look at clarifying that. It is our view that in certain instances a majority agreement by tenants should be able to permit landlords to submit for approval rental increases to support capital expenditures which will significantly benefit a rental complex. Right now individuals can improve their units, but what we are proposing is that if, let's say—I do not know what the number would be, I will leave that to the people working it out—80% of the people believe that some improvement should be made to the complex, that should be looked at in the legislation.

Our second major recommendation relates to a provision to allow landlords to claim for increases in financing costs. Our suggestion there is on existing levels of financing when interest rates increase. If landlords are unable to recover

higher costs resulting from future increases in interest rates beyond their control, their investment is inherently risky. The result is likely to be a reduced level of investment in housing by existing and potential owners. In this case we are suggesting that provision be made to allow for interest rate adjustments on existing levels of financing.

Our suggestion in this case is that we do not think every case where the rate has gone up the minimal amount should be considered. Our thoughts on it, and we did not present it in our paper, would be that for an increase of 1% or 2% the landlord may be allowed to apply for increases in his expenditures. On the other side of this, if he has applied, we believe that the tenant, after rates decrease, should be able to apply for a reduction.

I have only a couple more minutes and then we are looking for lots of questions, I hope. The other things are less important to us but we think they are changes that should be considered. For newly constructed buildings an exemption was provided for five years. In our paper we have suggested that it be extended to eight or 10, because there is a lot of cost in the initial period of construction.

Another approach we have provided in our paper is that maybe rent control should not apply to luxury units. In other words, an apartment being rented over a certain dollar amount should not fall within the guidelines. We have suggested in our paper that certain exemptions be applied there.

Application to reduce rent relative to inadequate maintenance: The tenant is able to apply for a rent reduction because of inadequate maintenance. I think that is a realistic thing. However, we have to have a definition of what "inadequate maintenance" is. It has to be looked at and defined clearly as to how that is going to apply for the renter who is requesting a reduction in rate.

The last point we have is relative to a work order to prevent a rent penalty from being issued which would prohibit the landlord from taking any rent increases. The period there is 30 days. I think on certain major changes to buildings he may not be able to get the action done within 30 days, so we again would like that considered.

Tom or I or the members of the CBA would be pleased to answer any thoughts and any questions you have on our presentation.

1010

Ms Poole: Thank you very much for your presentation today. Mr Chair, we have had yet one more group come before us and express concerns about the fact that "neglect" and "inadequate maintenance" are not defined. Since on August 1 I asked the ministry to define those two terms and that is now four weeks, subsequent to today's hearings I wonder if the ministry staff could come forward at this time and give us their definitions of neglect and inadequate maintenance. Would that be in order?

The Vice-Chair: If we have consent it is in order. Everything is in order if we have consent. Is there consent from the committee?

Mr Turnbull: As long as it does not take away from any of the time allotted to the questions, absolutely.

The Vice-Chair: I take it we have consent. Perhaps someone from the ministry might clarify this for both the presenters and the committee. Dana, you can take a chair at the end there.

Ms Richardson: As you know, Ms Poole, the words "inadequate maintenance" and "neglect" are not defined in the legislation itself. This certainly has been the subject of a great many submissions from various groups, and the ministry has been listening to the suggestions those groups are making.

We are not prepared at this point to define in the legislation what those particular words concern. However, we will be making a presentation later today about some of the potential concerns that would be taken into account in deciding these particular matters.

We will, in our presentation at 11:30, be reviewing some of the submissions and some of the other concerns, legal concerns, about defining those particular words. Perhaps I could defer that matter until later on.

Ms Poole: I am certainly willing to defer the discussion, but I can say that I am really dismayed that after four weeks the ministry cannot give definitions for two very crucial components of its legislation. I, for one, am not willing to even consider passing any clauses or provisions that deal with these issues until we have seen such definitions. So perhaps you could have them work extra hard this morning and come up with them by 11:30.

Ms Richardson: We will certainly be prepared to discuss those, Ms Poole.

Mr Tilson: I think our party feels the same way, Mr Chair. It would be irresponsible of this committee to submit its report to the Legislature without knowing what the definitions of many of the sections are that affect this bill.

It appears that the other alternative would be simply to allow definitions to be defined by regulation, which means that the whole housing issue would be set by the bureaucrats as opposed to the Legislature, which I think we all agree would be wrong. It is imperative that many of these definitions you have been hearing from all sides, from landlords, tenants, all parties that have been making submissions—it is not just the banking associations that have been making these requests—it is not just the issue of neglect, but there are other definitions. Before we start going through clause by clause, how do you put forward whether you vote or whether you do not vote in favour of a particular section? If you do not know what the words mean, how can we intelligently deal with it?

Ms Poole: I have several questions. You have told us about the underground parking garage problem, and I concur with you that it is a serious problem that this legislation does not address. I was somewhat puzzled by your conclusion when you said that with major capital, all the legitimate costs should be able to be passed through without the need for carry-forward. Are you inferring from that that all the costs should be put through, obviously on an amortized basis?

Mr Taylor: Yes, on an amortized basis would be the approach that we have taken, but that they would all be taken in at the time the application was made.

Ms Poole: So you are saying, if it resulted in a 15% rent increase, so be it, and not try to phase that in.

Mr Taylor: No. Tom, do you want to answer that?

Mr Alton: It is not to be recovered in the one- or two-year period. In other words, the benefit may be much longer, so it might conceivably have the cost recovered over the financing period of that major renovation. If the major renovation was to be financed over five years, maybe you could have the rent increases for the major renovation amortized over that period. In other words, the prohibition to the carryover means that it can be carried over without limits.

Ms Poole: Yes, that is what I was trying to get at, because I thought that might be a more realistic way of looking at it than trying to lump everything in one year, which did cause problems under the old legislation.

1020

Mr Callahan: If you did that, how would someone who rented during the period of the amortization be able to determine what was the proper rent? I imagine if the old registry continued to exist, you would register that rent which had, let's say, a 15% increase which was to be amortized over, let's say, five years. How would you register that? Would you register it with the 15% increase? And how would somebody who was renting in the interim determine what the proper rent was?

Mr Alton: I think perhaps you have answered the question. You would register the increase. I think it could be somewhat similar to a local improvement in the municipality. You put storm sewers in the streets and you amortize the cost over a period of time and you tax the home owners for that period of time that it is being amortized. At the end of that period, the tax goes off. So similarly, the rent would decline at the end of the amortization period for the amount that was used for the major capital expenditure.

Mr Callahan: The analogy of an expenditure that would go with a home is not really a valid one because the person who purchases the home, purchases the home with all its warts and pimples. I hope I am understanding this correctly, as I am just filling in today, but you are saying that if a rent increased for a major expenditure, the application would be made to the body. It would be granted. It would not be charged in that first year for the full amount of the 15%. It would be amortized over the length of the financing for the particular capital structure.

I guess I am thinking more about the mechanics. If someone were, let's say, buying the building and wanted to re-rent, how would he determine whether the rent as listed on the register—which I presume would be the rent increased by 15%—how would he determine what the proper rent was?

Ms Poole: Mr Chair, perhaps I could help out in this instance, because I am not sure our witnesses are prepared to answer or can answer that question. Bill 121 has a similar provision to Bill 51 in that the landlord would have to notify any incoming tenant of any proposed rent increase, so once rent review set the rent increase and what it would be over the subsequent, say, five-year period, then that landlord is under that obligation. If the landlord fails to do that, he or she would face a penalty of two years worth of increases. So that provision from Bill 51 has been carried forward.

Mr Alton: That is right, and from that point of view it would be unchanged with our proposal. In other words, what you have now in the legislation would continue to apply as to how people would know what the rents were.

Ms Poole: I was just looking at your proposal for luxury units. I guess there would be a difficulty defining what luxury units would be if you were to exempt them from rent control. Do you have a dollar figure in mind?

Mr Taylor: No, we did not. We discussed that yesterday at a preliminary meeting but we did not decide what that would be. I suppose we could be of assistance to the people looking at it based on luxury buildings that we finance, but we did not get into what that might be.

Ms Poole: Well, we will do what all good committee members do, which is put it back in the laps of the ministry and say, "Please define this and what should the dollar figure be." Thank you.

Mr Tilson: Your presentation deals mainly with specific items under the bill. I would like to know what your thoughts are on how this bill will affect financial institutions, banks, trust companies. There has been a number of articles in the newspapers over the last little while dealing with the survival of First City Trust and its problem seems to have been a write-down with respect to the real estate portfolio.

One article from I think today's Toronto Star talks about 41% of their portfolio up in—and to use the paper's quote—"riskier apartment building loans." They also talk about a certain percentage, 12% with respect to single-family mortgages. Listening to this, reading these articles, there seems to be some implication with respect to investing in apartment buildings. My question to you is, therefore, how do you anticipate Bill 121 will affect financial institutions in the province?

Mr Taylor: I am going to ask Al Cooper to address that first because he has been involved with both sides of the banks relative to new construction. A lot of the financing we do on apartment complexes is relative to take-out financing. I will let him take it on and then you can ask questions of both Tom and me.

Mr Cooper: With respect to the viability of financial institutions as it relates to any particular bill, there is never one issue. There are always compounding or a number of issues. Clearly, in the context of banks, while we are rather significant in terms of residential lending and we do react and respond to downturns in the economy and market value both of rental units and mostly single-family, home-owner type units, the proportion of the mortgage portfolio to the total size of Canadian chartered banks is not nearly as significant as it is for trusts which legislatively must have a proportionate amount in residential or real estate loans.

The value of those portfolios and the viability of those portfolios would vary from company to company. Clearly some are not suffering as much as others, but we are in a downturn period and the viability generally of many of these residential and commercial real estate ventures is under severe pressure and strain at this present time. Thus, you do see quite a number of articles and you will, as the financial institutions report the results, see increasing provisions. Some have a better capacity to deal with that than others.

In terms of the bill in general, I think it is reasonable to suspect that anything that is perceived by the market to inhibit, cap the ability to finance—and, as was stated in our presentation and was mentioned earlier, when you are dealing with this type of unit you are dealing with cash flow and the ability to repay, not necessarily the underlying value, but those values will be driven down by anything that artificially caps relative to what the market would otherwise dictate.

Mr Tilson: What I am concerned with is that, because the number of restrictions appears to be increasing with Bill 121, which will make you, as bankers, more and more reluctant to either refinance or to provide new financing, I would like to know what you anticipate the effect will be on your industry, if any.

Mr Cooper: It will have a behavioural change, but it will not in any way affect the viability of banks.

Mr Turnbull: Turning to the question of value that exists in apartment buildings today, I think you would probably agree, and I would like your comments on this, that the difference between the reduction in value in, say, office buildings and apartment buildings is that office buildings have been driven by a vacancy rate, whereas the reduction in value in apartment buildings has been driven purely by legislation. First of all, is that correct?

Mr Taylor: Yes.

Mr Turnbull: Numbers varying between 25% and 40% reductions in apartment values have been reported to this committee. Can you just comment very briefly on that?

Mr Taylor: I do not think that, other than in luxurious type of apartment complexes, the decrease is 25% to 35%. I think it may be more in the 15% to 20% range.

1030

Mr Alton: Yes, it is hard to generalize because it varies from market to market. Apartment buildings in Windsor might have a different effect than the ones in Toronto, but you just have to look at the apartment starts in this province, and they virtually dried up this year, and other than social housing there are really no multiple housing starts. Therefore, the banks are not financing very much of it.

Mr Turnbull: Turning to the availability of funds to refinance existing mortgages, are you taking a more conservative approach to refinancing?

Mr Alton: I think that would be the case generally among the financial institutions. That is right.

Mr Turnbull: We have heard stories of people who had collateralized their mortgage on the building against their own home. They put their life savings into buying the deposit. Indeed, yesterday on television we saw a couple who were evicted from their home along with their five children because they had lost their building because of their inability to refinance it. Is this a typical thing, that people are collateralizing loans?

Mr Taylor: I would say there are cases where people collateralize to support the initial venture into apartment financing, that it is security for the financial institution. I have not seen or heard of too many instances where there have been problems with financing, relative to the fact that there is no security backing it up in the form of collateral security.

The Vice-Chair: Ms Harrington.

Mr Turnbull: Can I have one quick question? It is really rather important to the considerations of this committee.

The Vice-Chair: It is Ms Harrington's time.

Mr Turnbull: I think we will answer some of the questions that the NDP has been asking.

Ms Harrington: I will see if there is some time for you.

Thank you very much, gentlemen, for coming. It is nice to see you again. I know you were involved in our deliberations last April.

I find it extremely curious indeed that Ms Poole is not aware—because I know she was intimately involved with Bill 51 in the last three years—that the regulations dealt with the definitions and in fact Bill 51 did not define ongoing deliberate neglect. The Tories supported this bill, so I think you should go back and ask the people who were involved about how that was done. It is our intention—

Ms Poole: Mr Chair, on a point of order: Since Ms Harrington has questioned my comments, I would like to point out to her a very real difference—

The Vice-Chair: That is not a point of order, Ms Poole.

Ms Poole: It certainly is—

The Vice-Chair: Ms Harrington has the floor.

Ms Harrington: We will discuss it. Okay?

Mr Callahan: It is a point of view.

The Vice-Chair: Yes, it is.

Ms Harrington: I have a couple of questions I would like to ask you. First of all, I should clarify that the 30-day provision—and maybe our staff will help me later in clarifying this—is not that it has to be done within 30 days. There is lead-up time to that in which the landlord certainly has time to rectify that situation.

You had mentioned in your brief the interest rate changes. Do you see a difficulty in tracking these, both up and down? Is this going to be a problem?

Mr Taylor: It would be possible to track it on a regular basis. I guess we are suggesting that maybe it be looked at on the basis of not every adjustment of a quarter per cent or a half to try to avoid a pile of work at different levels, but the information is available through the CBA.

Ms Harrington: I am just concerned—

The Vice-Chair: Mr Wiseman also has a question, just for your information, Ms Harrington.

Ms Harrington: Okay. I am concerned that it may be difficult, but it is something we are looking at.

The other thing I wanted to touch on is your proposed changes to the capital expenditure provisions in the act. First of all, I should let you know that we certainly expect tenants to pay. The government is involved in some of the renovations through low-rise rehab programs and certainly the landlords have to shoulder some of that responsibility as well. That is the way we see it. You mentioned an open-ended sort of pass-through over the years. We have proposed the initial year and one further year. How would you see it if it was extended one further year past that?

Mr Alton: I do not think that is going to cover the major capital improvements. I am talking about major; I am not talking about normal, small maintenance things. I am talking about big jobs like the redoing of the underground parking garages where the workers have to come in and jackhammer all the concrete out and redo it. That is a $1-million kind of renovation. I do not think that can be recovered in a one-, two- or three-year time frame.

Mr Wiseman: I would like to pursue with you for a minute some of your comments earlier in reference to Mr Tilson's and Mr Turnbull's comments. Currently we have a situation in Metropolitan Toronto where you can get the first month's rent free because there is a glut on the market. A lot of condominium owners have purchased on speculation. They cannot flip them and they are renting at what the market is determining to be the value, which is somewhere in the neighbourhood of $850 or $900 a month, even though they are carrying costs at $1,500 or $1,600 in mortgage payments per month.

Given that we have a market situation out there right now in terms of rent and that rents are actually, for some apartments, going considerably lower than they have been in the past, how much is the current market situation responsible for the decrease in the sale value of apartments, given what you talked earlier about, how cash flow from the unit is of importance?

Mr Alton: I think you are probably referring to condominiums which have been sold to individuals who have then turned to rent those units, and I think your assessment is basically right. Yes, there is an oversupply and rents have not been as high as was expected by the purchasers of those units. There is an overhang in the market, and that is exactly why we are suggesting that luxury units not come under rent control. We think rent control should cover those at the lower end of the scale, those that most need protection. We do not think the people who live in luxury units need protection.

Mr Wiseman: That was not exactly my question. My question was, how much effect is it also having on the resale value of an apartment block that is not what you would consider luxury?

Mr Taylor: My opinion on that would be it would not be having a major impact at this point. I think they are looked at by different types of investors. Certainly the overall market conditions and the recession and so forth have an impact; there is no question about that. But I do not think it is strictly the condominiums on the market versus the lower-priced apartments that are causing the problem.

Mr Wiseman: Then how do you differentiate? The market is out there making determinant factors, so how do you define what the impact of legislation is, what market is, what high interest rates are and, say, the value of the Canadian dollar? How do you determine what is actually causing the decrease in the resale value of an apartment block?

Mr Cooper: In the context of the effect of condominium rentals, clearly their price is driven by the rent-controlled price of apartment buildings more than the other way around.

Mr Wiseman: The condominium price?

Mr Cooper: For the condominiums that are on the market—and most of them are short-term on the market—the rental that is being attracted being different from the carrying costs is driven more by what the rentals are generally in the marketplace. The majority of those rentals are driven by the rent-controlled buildings as the alternative to renting. That establishes a cap.

Mr Wiseman: I am not sure I understand how you can say that, given that—

The Vice-Chair: Thank you, Mr Wiseman.

Thank you. We very much appreciate your attendance here this morning.

1040

MINISTRY OF ENERGY

The Vice-Chair: The next presentation will come from the Ministry of Energy, Larry Moore, manager, energy management section. Good morning, Mr Moore. You have Mr Almassi here from Ontario Hydro also. You have 30 minutes to make your presentation. I am sure the committee would very much appreciate some time to ask you some questions.

Mr Moore: Good morning, ladies and gentleman. I am Larry Moore, the manager of energy management at the Ministry of Energy, and this is Mr Almassi. The way we would like to operate during our half-hour is that I am planning to give a very short presentation, just about a five-minute or perhaps 10-minute presentation, to try to set out the public policy relationship between the proposed Rent Control Act and the energy aspects. Mr Almassi is here from Ontario Hydro to answer questions of a technical nature that the committee may have about energy efficiency opportunities in rental buildings.

In terms of the relationship between rent control and energy, it really boils down to two key areas, and those areas are, first, to ensure the recognition of and the allowance for energy conservation investments to be dealt with, to be paid for. So energy conservation investments have to be paid for. On that one, our concern would be that there be no new barriers erected to prevent energy conservation from happening in these buildings. The other energy-related area here is the issue of allowing landlords to deal effectively with increases in energy prices, especially any exceptional increase in energy price that might happen some time in the future. So there are really just these two energy areas.

Both of these issues were thoroughly discussed between the Ministry of Housing and the Ministry of Energy. Both were included in the cap above the guideline as allowable expenditures to be included in that cap. We were pleased with that outcome of our discussions, our consultation. We were not overjoyed. Just like everyone else, I am sure, we would feel that we should have an unlimited ceiling. If people want to do energy conservation investments, that is the best possible thing that anyone could do, so you should be able to put all that on the rent. It is good for everyone in the long run. But of course we recognize that there needs to be a balance between all the investments that need to be made and, in the end, although I cannot comment on the specific size of the cap or on the

number of years the cap should be applied or anything along that line, we feel there has been a real attempt to get a balance here between stable rents and the energy concerns that we have.

The overall key thrust of the Ministry of Energy is energy efficiency and conservation. We have seen over the years, and our analysis clearly indicates, that there is a wide range of economic and environmental benefits from going ahead and doing these things, going ahead and doing the energy conservation measures. One important element of this is that many energy efficiency investments are cost-effective in their own right. In other words, the fuel saving that you get more than compensates for the investment you have to make in that energy conservation measure.

In a situation where a landlord is paying the energy bills directly, as opposed to the situation where the tenant pays the energy bill, there are many situations where it would actually be cost-effective and a good investment for the landlord simply to proceed with that investment without it necessarily being reflected in rents. In other words, you could have a separate investment for the energy conservation measure, which in many situations would actually pay for itself through the direct energy savings. So this is an important element just in those situations—and we believe it is about 80% of the situations—where the landlord pays the energy bills. That alone is not a huge barrier to energy conservation, but nevertheless, it is important to have some ability to have this reflected on rents.

I understand the committee is somewhat concerned about energy price increases in the future, so I would like to just address in a general way our forecast of energy prices in Ontario. The oil price situation looks relatively stable for the future. We are looking at increases in oil prices. Our forecast is that oil price increases—this is home heating oil basically—will rise slightly more than the rate of inflation. Our estimate of the rate of inflation is around 5% now, perhaps falling down to 3% if the federal government is successful in making its inflation guidelines stick. So we are looking at approximately 4% to 5% inflation at this point, and oil prices rising slightly higher than that over the next 10 or 15 years. High oil prices that we have seen occasionally in the past have proven themselves to be unsustainable and we do not expect them to be sustainable in the future, at least the foreseeable future.

Natural gas prices are actually on a slight down trend still. The major distributing companies have recently got quite a good break on their next set of contracts from the Alberta suppliers. We are looking for a slight down trend in natural gas prices in the short term, perhaps some tightening when the oversupply is used up, so some increases at that point, but overall, no real sign of a dramatic price increase again, up to the year 2000 and beyond, for natural gas.

I guess electricity is the fuel of greatest concern, and understandably so. All of us are facing significant increases in the price of electricity. The forecast for electricity is that for the next three years, we will be seeing rate increases between 9% and 13%. Take inflation away from those increases and they do not look quite so bad, but the total increase, including inflation, is about 9% to 13%. Beyond those three years, both Ontario Hydro and the ministry are projecting electricity prices to rise again, more or less in line with inflation. There is unfortunately this quite high increase in electricity rates in the near term to deal with.

That is basically my presentation. I am at your disposal.

The Acting Chair (Mr Callahan): Mr Almassi, you do not have a presentation, I gather.

Mr Almassi: No.

The Acting Chair: We have consumed about seven and a half minutes, so the balance will be divided equally.

Mr Tilson: One of the concerns that was raised at the outset of this committee was that if a landlord decides to follow your recommendations or the Ministry of Energy recommendations with respect to energy cost-saving ventures such as completely new windows, perhaps a new heating system or a new type of heating system, if the landlord then undertakes that, in consultation with the Ministry of Energy, he or she cannot pass that through under this bill. Second, if he or she goes and makes the application for the rent increase and receives it, the tenant immediately or shortly thereafter can make an application for a rent reduction because of, on your recommendation, the tremendous cost savings that will follow; in other words, the maintenance saving that will follow.

Why would a landlord or an owner of a building therefore follow your recommendations for energy cost saving when they know perfectly well that it will be most difficult to obtain financing from the bank because of the risk of rents being reduced? Why would they do that?

Mr Moore: I guess one of the good news items around energy conservation is that there are lots of players and lots of partners who are prepared to assist exactly these things to happen. Ontario Hydro has a number of programs, an increasing especially where electricity is involved, to work with the landlord, to perhaps finance the investment and in some instances actually give a cash grant to make these things happen.

1050

Mr Tilson: I appreciate that, but will they pay 100% dollars?

Mr Moore: Not ordinarily 100% dollars, no.

Mr Tilson: I hope not.

Mr Moore: What we are coming down to, and I think your point is a strong one about the possibility of an application for a rent decrease—now in the electricity situation, you cannot imagine this happening. In other words, you cannot imagine the savings you would make more than offsetting the rate increases the landlords are facing if the landlord is paying the bills.

Mr Tilson: Quite the contrary. I think it could be established that there are cheaper maintenance costs, cheaper energy costs, whether it is heating—I think you could determine the number of units that are being spent on heating. I think it would be very easy to determine the savings.

Mr Moore: What I was trying to establish was that as the rates go up, so the bill would ordinarily go up significantly. With the energy conservation measure the bill will simply go up more slowly, but it still may well go up or,

more or less at best, stay stable. It is rather hard to picture, given the increases we are looking at now, a situation where the electricity bill particularly will go down.

The same is not the case for natural gas; there is an opportunity to perhaps have lower bills for natural gas. I guess in a situation like that I would have to trust the judgement of the people judging the rate reduction application to use good sense and discretion in terms of allowing those rent decreases.

Mr Tilson: The Ministry of Energy may simply say, "Put in some new windows. Replace your building with new windows," as an example. It may have nothing to do with other ventures. But why would they do that? Again, you can say good judgement would tell the landlord. Why would they run the risk of simply paying the bulk of that themselves? Why would they bother?

One of the main reasons we have asked you to come is that many of the members, not all of the members but many of the members, of this committee feel there is a major conflict between the policies of the Ministry of Energy and the Ministry of Housing, not just for apartment buildings because you could talk about the renting of single-family residences. So your policies are being scuttled by the Ministry of Housing.

Mr Moore: I guess we have not actually seen that happen yet. In the scenario you have described, the landlords' financing of those windows, in other words the cost that they bear, would have to be considered as well. But in the end, if there were an allowance of a rental decrease, surely it would be in a situation where both the landlords and the tenants would get benefit still. In other words, the landlords would still be reaping benefits from the investment.

Mr Tilson: I am afraid it will not sell. If I were a tenant and I could establish that the cost of heating is down because of the landlord renovating the building, I would sure as heck apply for a rent decrease under this act. That is what the act allows. I am simply hoping that your ministry will put forward strong recommendations to the Ministry of Housing to put forward amendments, that perhaps—and this is my second question—there could be a way of making an exception, whether it is possible to amortize the cost of conservation methods, whether it be windows or anything else over a period of time, so that tenants would be precluded from having those rent reductions. Otherwise, no one will get into your cost-saving ventures and you might as well close up your shop as far as those recommendations are concerned. Would you be prepared to make recommendations to the Ministry of Housing to put forward amendments in that fashion?

Mr Moore: As I mentioned at the outset, we have had extensive consultations with the Ministry of Housing, including this issue of potential rent decreases.

Mr Tilson: They do not appear to have been successful. Are you prepared to try again now that you have—

Mr Moore: I do take your point.

The Acting Chair: I suppose that is a policy question really and it is something I think is unfair to ask a person who is a civil servant.

Mr Tilson: Quite the contrary, Mr Chair. If the Ministry of Energy is putting forward recommendation policies and sees a major conflict with respect to another ministry, surely the recommendation from one ministry will go to another ministry, perhaps saying, "You're going in the wrong direction."

The Acting Chair: It is close to the line. I think you have your answer.

Mr Tilson: There is a concern. I guess we are looking at the anticipated 45% increase with respect to hydro costs being bandied about and the effect that will have on housing.

The Acting Chair: That is going to have to wait for either another day, or somebody else may pick up on that question. Your time has expired, Mr Tilson.

Mr Mammoliti: Earlier you alluded to some grants that are available to landlords. I would like you to expand on that somewhat. What is available? Give us an indication, perhaps verbally, of what is available, but I certainly would like something in writing as well to give this committee an indication of what is available for landlords in the way of grants; the sooner the better, of course.

Mr Moore: Actually, I would like pass that question to Mr Almassi because most of these grants are from Ontario Hydro.

Mr Almassi: I would like to point out that actually we were notified of this hearing at Hydro last Friday, so first of all I do not think we are quite prepared to make a great deal of comment on this particular act. As far as our programs go, I will provide the committee with a copy of the literature that summarizes all our programs. At the moment, I will just stick to explaining two particular programs most relevant to the landlords.

One is our lighting retrofit program. We offer partial incentives for converting from the regular incandescent lighting primarily to more efficient lighting such as compact fluorescent. This would apply mostly to the common areas. We have recently extended the program to include the in-suite lighting as well, so it is quite comprehensive. There are a variety of things next to efficient lighting that we offer and that we offer incentives for. We also offer free shower heads—these are energy-efficient shower heads—in exchange for the old ones.

Another program that is really important to us is what we call saving by design. Here is where we look at the particular case situation of the landlord. We do a feasibility study and, based on the energy savings that can be brought about by implementing a particular measure, we offer incentives accordingly. That saving by design is very comprehensive and there is no limitation as to what type of improvement in terms of energy efficiency we might be looking at.

We also have the power savers audit program. The audit is free. We do a thorough, comprehensive audit on their whole facility, produce a report and make recommendations.

Mr Mammoliti: It sounds like you have some interesting programs. I am looking forward to seeing something in writing, the sooner the better.

Mr Almassi: Certainly.

Ms Harrington: I think it has been made very clear from your ministry's point of view that you do not see a major conflict. Certainly from our point of view, as the Ministry of Housing, we would like to assure everyone that we are committed and very serious about ensuring energy efficiency, and it is part of this bill. If there is any way the opposition parties could help us to make that more obvious, we certainly would welcome that. I just wanted to let you know we are committed to working with you to ensure this goes forward.

If a landlord puts in energy-efficient windows and passes some of the capital expenditure for that on to the tenants, then instead of the tenants having their hydro costs reflected by the guideline going up say 13%, it will go up possibly 6%. I think that is what you were trying to explain.

1100

Of course, the other major concern we heard in Sudbury and other places is what you have stated, the increase of 9% to 13% for electricity. The way this is dealt with in the bill is that it is part of the guideline increase, the inflationary increase. All the people of Ontario already know what was announced last Friday, that the guideline has gone up for next year, 1992, from 5.4% to 6%. Much of that, besides municipal taxes, is going to be these increases in electrical charges.

Interjection: Is that the cap?

Ms Harrington: If that goes up, it is reflected not in the cap but in the guideline. I am just wondering if there is any way you could make that clearer to people. I also appreciate the fact that you are saying that 80% of the projects undertaken for a building are in fact paid for in themselves by the energy savings. That is a very important point for people out there to understand.

The Acting Chair: If you are evoking an answer from them, you have very little time left for them to give that answer, but if you wish to continue yourself, that is fine.

Ms Harrington: Okay, if they would like to make a comment, that is fine.

Mr Moore: The only point would perhaps be a point of clarification. I mentioned that in approximately 80% of buildings the landlords pay the energy bills. These are the buildings where there is more opportunity for landlords to take advantage of cost-effective energy savings as opposed to 80% of the opportunities being cost-effective, but there is an array of cost-effective opportunities available.

Ms Harrington: Thank you for that clarification. What percentage do you think would be cost-effective?

Mr Moore: It depends on what you want to use as a baseline, but on average, something like 20% to perhaps 30% of energy use can be reduced.

Mr Ruprecht: I would like Mr Moore to clarify something for me if he could. Did you say that 80% of the landlords who pay the utility bills for their tenants would consider it a good investment to retrofit in the energy field? Did I hear you correctly?

Mr Moore: No, I did not say that they would consider it to be a good investment, but it would be a good investment for them.

Mr Ruprecht: It would pay for itself in a few years, i other words. That is what you said.

Mr Moore: That is correct.

Mr Ruprecht: Are you then prepared to follow up o Mr Mammoliti's question? Would you be prepared to en sure that there would be sufficient municipal programs a well in that area so municipalities would be ensuring tha the idea of energy sufficiency and better use of energ should be used throughout Ontario?

Mr Moore: That is an excellent point. Much of thi does lie in the municipal realm. Some municipalities as yo know—the city of Toronto is one notable example—ar really, if anything, moving ahead of the province in som of these areas. Other municipalities still have to come o board. But it is an excellent point.

Mr Ruprecht: Is this in the pipeline now?

Mr Moore: Yes.

Mr Ruprecht: You will have new programs comin and new moneys being spent in that area?

Mr Moore: We are looking at Ontario Hydro spendin somewhere between $3 billion and $6 billion over the nex nine years. The Ministry of Energy has recently enriched it program budgets by $10 million a year. That is relatively small compared to Ontario Hydro. We have the gas utilitie entering into a major hearing this fall that may give them th authority, through the Ontario Energy Board, to spend mone on conservation. So there really are major players out there.

Mr Brown: I am puzzled by this entire presentatio and puzzled by the fact that you are suggesting that unde this legislation there could be any payback for any land lord to do any energy conservation, period. The way thi reads is that if a landlord pays over the prescribed amoun of money for electricity; if he is over the guideline becaus perhaps his building is all electrically heated, everything i the building is electricity and that is what is going up th fastest, he can apply to have extra increases because he i spending more money on electricity. So if he spends more he can get more from the tenants. On the other hand, if he spends money on capital he is going to get less from the tenants if they apply for a decrease. So if there was any payback, there now can no longer be any payback.

Simple economics tells you that your energy conservation programs will not work in a scenario where if the owner of a building does something he is going to be penalized. People are stupid, but they are not that stupid. So to say that this will encourage any energy conservation or electrical energy conservation or any conservation, period, is ludicrous. You guys lost.

I would like to know how much Ontario Hydro has as a goal for reducing electrical consumption within residential apartment buildings over the next 10 years. Do we have a goal?

Mr Almassi: We see a potential for energy savings as high as, I would say, approximately 400 megawatts in the multiresidential sector. That would include condos as well. It has not been isolated just for rentals. That is the estimate, and probably by expanding our plans for conservation in the light of new financing and so on, that could be even

higher. So I would say somewhere between 400 to 500 megawatts would be the potential in the multiresidential segment. As you might know, the condo section relative to the rental is relatively small, so the bulk of it would fall in the rental segment.

In terms of different programs we are offering at the moment, for example, a non-profit housing program where we offer a package of different retrofit measures, including air leakage control, lighting, shower heads and so on as a package. In non-profit housing, through this program, we expect in three years about 30 megawatts savings.

Mr Brown: Could you tell me if the programs you are putting forward, which I am telling you are not going to work, just because any money is too much money in this case, are based on net avoided costs for Hydro? Is that the criterion for spending money in this area? In other words, are we really spending money to have energy efficiency or is Hydro spending money above and beyond that for conservation purposes? There is a difference between efficiency and conservation. Is your program in apartment buildings based solely on net avoided costs?

Mr Almassi: I am not prepared to comment on all the programs as a blanket on the other score. I can provide the information for you as a generalized statement, but I am not prepared to answer that question, I am afraid.

Mr Brown: We are having some major difficulties trying to discover how to control the greenhouse effect, how to do the environmental things we want to have happen when we have a piece of legislation from the Ministry of Housing and—they are laughing over there. They do not think that kind of thing is important. Well, it is and every piece of legislation that is before this Legislature has to be considered in the view of environmental and energy questions, which are linked very, very closely.

Interjections.

The Acting Chair: Order.

Mr Brown: We think over here that a Ministry of Housing that is coming out with legislation that is going to preclude that is very, very difficult and will be very, very harmful to the people of this province and to tenants.

Interjections.

The Acting Chair: Are you yielding the floor to supplementals, or what? We have to have a very quick response to that.

Mr Moore: I am quite prepared to answer any questions that you have along those lines.

Mr Brown: What is your goal for limiting gas emissions, both sulphur gas and carbon dioxide, within the ministry for the next 10 years?

Mr Moore: One of the very strong actions that you have already seen related to greenhouse gases, and it is not brand-new, but we have our crown corporation, Ontario Hydro, being prepared to spend between $3 billion and $6 billion over the next nine years to come to grips with electricity conservation.

Mr Brown: But Ontario Hydro right now is building gas turbines, which are not the most—and that is what the short-term means for Ontario. Conservation is great, but what you are doing is producing more gas emissions every year and that is your program.

The Acting Chair: And on that pleasant note, we thank you for coming. We appreciate your coming.

1110

ONTARIO ASSOCIATION OF PROPERTY STANDARDS OFFICERS INC

The Acting Chair: The next presentation is the Ontario Association of Property Standards Officers Inc, Mr Brian Allick, president. Welcome, Mr Allick, to the den of—welcome to the committee. You have 30 minutes and you can use all or any part of that time for your presentation, but I am sure the committee members will have some extremely enlightening questions to ask you, and we will divide that time equally among all three parties.

Mr Allick: My name is Brian Allick. I am president of the Ontario Association of Property Standards Officers. This association consists of some 800 members, a voluntary organization which was started in 1970 and has maintained through the assistance of the provincial government at various stages to its present status. We are in the process of organizing educational programs with the assistance of Seneca College for people wishing to enter the field of property maintenance and administration.

While I must, as your previous speaker said, apologize for my somewhat amateurish presentation, I was not advised of this meeting until last Friday, and being a voluntary association it is very difficult to try to get a group of people together to make preparation. But with regard to Bill 121, we have over the years with the green papers, with Bill 51, made presentations in written form, to the Ministry of Housing, and with your permission I would just like to reference a couple of the points in the report on the green paper and what we said at this time.

We, as property standards officers, are the clearinghouse at the municipal level for every piece of legislation dealing with a building that comes from the federal government, the provincial government or the municipal government. Consequently, the people at the municipal level dealing with this legislation need to be very, very well educated not only in the mechanics of building—how they are put together, what makes them tick, how you maintain them—but also the legislation that goes along with it.

The references this morning have been dealing specifically with Bill 121. We are dealing with the control of rents and the maintenance of buildings, but once we begin to talk of that, we cannot ignore, as proponents in the field, other legislation which impacts, ie, and the Ontario Building Code and the fire code. We have the Elevating Devices Act. We have the health and safety acts. Not only do we have acts dealing with residential properties, but we must also consider the food and liquor acts because many of the rental properties are above commercial properties. As property standards officers, we have to be aware of the legislation and we have to be able to apply this legislation. This is usually created by a network of communications between the various agencies at the municipal level. This, of course, is most important. Without that network of communications a property standards officer cannot operate.

Our other concerns involve the permissive legislation regarding property standards. As you know, the property standards bylaw at the municipal level comes from the Planning Act, section 31. It is optional upon a municipality whether or not it passes a property standards bylaw. In Bill 121, you reference maintenance, you reference adequate repairs. My question to this committee is, when we see these things, who is going to make that determination whether it is adequate, whether in fact it is required? How is this going to be determined?

Our members, at every meeting that we now hold, constantly bombard us as the executive. What do we do about the number of subpoenas our members are getting into in the rent review process? How can we stop this? The impact this is having upon the costs to a municipality is something, I think, that has not been referenced, certainly not that I have heard of. We as an association do work very closely with the Ministry of Housing, and we would like to continue to do this. Certainly if anybody has any questions on those comments, I am wide-open.

The Acting Chair: I think we are starting with the government first. Do we have any questions from anybody? Ms Harrington.

Ms Harrington: Thank you very much for giving us the background on how wide a scope you have at the municipal level. Being a clearinghouse, you certainly have to be familiar with many different acts. I understand from what you have said that it is a time of transition, a time of uncertainty. I certainly think your members will be a very important part of the future of housing in Ontario, both in municipal enforcement and involved with our Ministry of Housing. I have met with some of your members through my work with the building code, and a lot has to be clarified. I think that is what you are telling us and I think we are realizing that and taking this very seriously. It is not just through the Rent Control Act, but many other pieces of legislation as well.

I would like to tell you how important working together is. We are going to need your expertise very much, and we will definitely be negotiating a lot of these things. The question is, how can we ask municipalities to do it, if they do not have the funds to do it, and it is something that has to be done? The responsibility comes back to the provincial level. That is quite clear. So if there are any other suggestions you might have, let us know. We realize that the maintenance provisions in this bill are a very crucial part of it, and something that has to work well. It cannot have any hitches. It has to work efficiently, and because it has been optional in the Planning Act to have municipal inspectors, that has led to some problems across the province and the province being involved in some areas. So what I am saying to you, if there are any other comments you would like to make to help the government, I would certainly be willing to hear them at this time.

Mr Allick: The concern that we have as an organization, and we go back a number of years, is that at the municipal level a property standards officer has always been a guy whom the municipality did not really know what to do with. Somebody decides they will pass a property standards bylaw, and this one particular guy gets it. Now he does not only get the property standards bylaw; they pass a dog-catcher bylaw, so he also gets that one. Then they get a long-grass bylaw, so he also gets that one. One of the difficulties that we have had as an association is gaining recognition. Gaining recognition as a property standards officer is experience. A tremendous amount of the knowledge that a property standards officer has is experience. We have not found any educational place or building that puts on a course that teaches property standards officers how to do the job. Consequently, our approach to the universities—and Seneca has taken up on this.

In an effort to gain recognition for our members, and of course I will never miss this opportunity speaking to government, we have a private member's bill coming before your government asking for recognition, that we will be recognized not only by the municipal employees but by the industry itself and the people. Once we get into the building code field, the building inspector field, we have the CET recognition, certified engineering technicians, we have professional engineers, we have got these recognitions which are there, but in the maintenance field we do not have it and what we are asking for is recognition.

1120

Ms Harrington: I would like to—

The Vice-Chair: Mr Perruzza also has a question.

Ms Harrington: Oh, does he? Okay.

I would like to get back to our question which we discussed earlier this morning, and that is our definition of adequate repairs. This is something that is very important, and as I pointed out, in the previous legislation, the RRRA, it was defined in regulation. I believe it is the intent of our ministry and our government to work both with your people and with the tenants and the landlords and the bankers to set in co-ordination together what these definitions should be, workable ones. They are very important. You cannot do your job without them.

Mr Allick: Yes, right.

Ms Harrington: So that is our intention, to work with you on that.

Mr Allick: Thank you.

Mr Perruzza: I would like to start off just by making a general comment about bylaw enforcement officers and then I would like to taper off into a quick question.

I think the role of municipal property standards officers is expanding into the social work area, and I think the gentleman will agree with me that when a property standards officer visits the sites, he needs the full co-operation of the community members and more often than not he ends up being an arbiter in civil disputes and so on. More often than not they are able to resolve it right on the spot simply by bringing neighbours together, by bringing landlords and tenants together, by bringing the different parties together and talking.

I just think that our Planning Act and the Ontario Building Code and the bylaws by which the officers are both appointed and empowered at the municipal level do not go far enough in granting the officers who are out there

on the street doing this kind of work enough enforcement abilities to be able to do their job efficiently and effectively. I would like to know from you, sir, what changes you would like to see to current legislation that would enable officers to perform their duties more expeditiously and in a better way.

Mr Allick: I am sure you know, Mr Chairman, there is a bill before the House, originally Bill 103, now Bill 112, which talks about amendments to the Ontario Building Code. That bill gives sweeping powers to a building inspector for powers of entry, for search warrants, for everything of this nature, and, I might add, in that same bill it talks about a code for existing buildings.

Now we as property standards officers have difficulty with the terminology "a code for existing buildings." A code, by definition, means a series of laws. When we deal with their building requiring maintenance, if we have a black-and-white situation in law, it hampers us. When we are dealing with the maintenance situation in a building, we look at several options at solving a problem, and this is one of the unique functions of a property standards officer. As you indicated, sir, we deal with social services. We use helping hands; we use any means and agency available to solve a problem. This is why I said initially a property standards officer is a clearinghouse of all these agencies to solve a problem.

But as far as additional powers are concerned, we would like powers of entry. We would like that ultimate authority, if we get into a situation where either a tenant or a landlord says to us, "You can't come in," that we can go to a justice of the peace and say, "We'd like a warrant to go in there." We have been involved in situations where people have been lying ill on the floor and nobody can get in. Even the police, in these situations, are hesitant to go in.

Ms Poole: Thank you for coming today. We were quite anxious to talk to you and get your impressions of the bill and how it is going to work.

I have two major items to cover with you. The first you brought up yourself, the definition of adequate or inadequate, who is going to be making these decisions and how are they going to arrive at them and is the burden once again going to be put on your shoulders. Earlier, and you may have been here at that stage, Ms Harrington said, "This is the same as Bill 51, where ongoing deliberate neglect was not defined." I think there is a very major difference, because in this legislation those two terms, "inadequate maintenance" and "neglect," are just crucial and very controversial.

The second thing is that when they were doing the regulations for Bill 51 they had an incredibly comprehensive procedure with landlord representatives, with tenant representatives, with representatives from various organizations. It went on for months and they basically drafted the regulations. They just did not have them handed to them, saying, "What do you think of this?" So it is a very different scenario.

Would you feel comfortable with this legislation passing in its current form if we have no idea what the terms "inadequate maintenance" and "neglect" are going to be?

Mr Allick: That is a leading question, but the answer is no.

The Vice-Chair: You are right.

Ms Poole: I like the answer to my leading question.

The second area of contention around this legislation regarding maintenance deals with the work orders, and you have pointed out a very real concern that I know property standards officers and building inspectors have had, and that is powers of entry, that you really need that.

The concern I have with the way it is set out now is that, say you are a building inspector, you go in and you see something wrong in the unit and you put a work order on and that has a time limit. At the end of that compliance period, if there is not compliance, that work order would automatically be filed with the ministry, in this case the director of rent control. Then the director would give notice of a possible rent penalty to the landlord. The landlord has 30 days in which to try to get the director to rescind that rent penalty.

Here is where we get to the crux of it. The only reason that work order can be lifted is full compliance. It cannot be substantial compliance. It cannot be reasonable efforts to get the job done. There are no extenuating circumstances, such as there is a construction strike, such as the inspector thought this underground parking garage could be fixed up in six months and when they got into the work, which is the only time that they can really determine how much work is necessary, and looked at the main slab, they found out it was going to take two years. None of this can be taken into account. It is just either they comply or they do not. If they do not comply, there is a rent penalty.

I do not want to ask you the leading question, "How do you feel about this?" Maybe I can moderate that somewhat and say, can you suggest any ways of dealing with this problem that would not be quite as draconian and allow no right of appeal?

1130

Mr Allick: Yes. If you are familiar with the present process under section 31 of the Planning Act, what is required under that statute is, first of all, that a notice of violation is issued. This opens up the lines of communication between the owner of that building and the property standards officer. During that period of time, all that notice says is that the property standards officer feels this certain thing is wrong in your building. That is all it says. If the owner does not respond to that notice, the property standards officer then has the option to issue the order. It is this second, legal document which is forward to the RRSB. The RRSB then takes a copy of that order to do all these negotiations. In the meantime, the property standards officer is working with the owner of this property.

A municipality, if it is active in its enforcement of property standards, has the authority to order that work to be done and the costs of that work to be added to the tax rolls.

This happens quite frequently in the municipality that I am from. The work is cleared, the order is satisfied and everything else and we file the order away, and then we advise the RRSB that we have solved the problem. So they

have gone through the process while we have solved the problem.

Certainly as property standards officers we do not feel that a rent penalty is a proper penalty for not maintaining a building. Invariably, if we talk to a landlord or a property owner, his immediate cry to us is, "I have no money to fix it," and we as property standards officers rush around and look at all the various loan programs available and try and link him up with a loan program so that he can financially carry this job. If he cannot and it gets to the situation that this is something serious, it is unsafe and the municipality had better do something, and we go in and put it on his tax roll. He is already penalized, then it goes to RRSB and he is penalized again. It kills that operative's financial intake.

Ms Poole: You have explained—

The Vice-Chair: Mr Callahan has a question, Mrs Poole.

Mr Callahan: Unless you want to pursue it.

Ms Poole: How much time do we have left?

The Vice-Chair: You have two minutes.

Ms Poole: Would one be enough for you?

Mr Callahan: Sure.

Ms Poole: Okay. You have really described the catch-22 situation quite well. What I am concerned about is that if we get into this catch-22 situation, then our building inspector is not going to want to put a work order on if he knows that the problem is that the landlord cannot get enough of a rent increase to pay for the substantial repair. Say it is an underground parking garage. The landlord cannot get financing to do it because he will not have the revenue in. What do you do in this case?

Mr Allick: Invariably we continue our enforcement and we close our eyes to the financial impact. In a situation where we cannot get it done and the costs are too big for the municipality to carry, ie, a parking garage, we will waltz this guy into court. Then the justices of the peace and the judges will penalize him again by fining him for an infraction of the bylaw, but we have still got the problem when he comes out of the court. So that is not the answer. Then we start all over again and we penalize him again.

Ms Poole: What is the answer?

The Vice-Chair: This may be impossible, but Mr Callahan for 30 seconds.

Mr Callahan: I did not want to interrupt her because I was intrigued by the questions and the answers.

Just quickly, when municipalities pass this enabling legislation by bylaw, they are not all the same, are they?

Mr Allick: No, sir, they are not.

Mr Callahan: So in fact what you have is an inequality of standards being applied, in some cases no standards and in other cases inequality because they are different. I am not going to ask you that, but I am going to throw out to the ministry people that they are probably going to find themselves in the Supreme Court of Canada on a constitutional challenge.

Mr Allick: My response to that, if I may, Mr Chairman, is that looking across the province I agree with those differences, because the standards required in a certain area of this great province may not necessarily be the same standards required in other parts of the province. Really, I feel that a property standards bylaw should be written by the local people themselves, with their input and involvement as to what they want to their local councils, and then the local council says, "Okay, this is what you want; this is the way we will deal with it."

We can look at bylaws in southern Ontario that have horrendous clauses which deal with inoperative motor vehicles stuck in a backyard or something of this nature, but if we go north of Sudbury, it is a fact of life that you have a second inoperative vehicle in the backyard to use for parts. If you were to apply the property standards bylaws in southern Ontario to northern Ontario, it would create severe hardships for the people.

Mr Turnbull: Mr Allick, I know your people have a very difficult job and I certainly take my hat off to you, because it is a very difficult, fine line you have to walk often. The Conservative Party very strongly believes we have to have rigorous enforcement of high standards of property maintenance in the residential area in this province.

My concern is, and I am going back to the underground parking garage, because this comes up all of the time, as you are well aware, an underground parking garage can cost as much as $1 million to repair. Under the proposed legislation, Bill 121, the maximum that a landlord can get in a given year towards capital is 3% plus 2%, and you can have a one-year carryover in the case of a building which has low rents and may not have undergone a major renovation, say, in the last five years when Bill 51 was available for you to pass that through.

It seems to me that with that kind of money it would be impossible for a landlord to undertake any major capital job if at the same time he had a high rise in taxes or some other unusual cost or he was slapped with a work order because a tenant wanted to use that in reducing rent. Do you believe it is going to be possible to undertake these major capital items like underground parking garages with this legislation?

Mr Allick: With due respect, sir, we do not. Certainly I have not studied this from a financial point of view to make any comment, but just on the face of how you describe it, I do not think it can be covered. The buildings in general over the province are getting older, they are getting to that point in time, specifically the larger buildings, because outside of Toronto no large buildings have been built for a number of years. What there is now is all getting tired. They are all getting tired and they are all requiring maintenance. Certainly we have been in the situation of even three-storey walkups where the landlords, the owners, have not been able to find the money to put a new roof on and we have wound up doing it.

We looked at this whole issue as an association and we even referenced the Ontario New Home Warranty Program in new buildings. We talked a little bit about if there was to be some method of financing where there were moneys put in by the provincial government, moneys put in by each individual tenant, moneys put in by the property owners to

create a fund, as there is with the new home warranty program, and that fund could be used for these major capital expenditures you are referencing, then maybe that is the answer to the concern everybody has as to these wild fluctuations of capital expenditures on the large buildings.

As I say, it is something we discussed briefly. We have not gone into the mechanics of doing something like that, or the impact, but certainly it would appear that if an insurance fund, if you can call it an insurance fund, was to be created in that manner, that capital would be available.

Mr Turnbull: Obviously there are great problems with that scenario. Let us say you have tenants in a building which has undergone major capital repairs during the period that Bill 51 was available, the Liberal legislation. All of those costs will have been passed through to them. They would in essence, if you are making all of the tenants across the province pay for it, be paying double, whereas the people who have been in old buildings where they have not had rental increases because the major capital items have not come up would be the net beneficiaries from the other people.

Mr Allick: But surely, sir, on average, as each building needed a major entity, it would balance itself out. In the initial outset you would be absolutely right, sir, but after a period of, let's say, five or 10 years, when a number of buildings had been done, it would catch up with itself and everybody would be equal. It is the same, we can say, as when the new home warranty program was introduced. Everybody previous to that did not have the safeguards on the property they bought.

Mr Turnbull: There is a difference, though, inasmuch as you have some buildings, fairly identical buildings, where you have got $400 rent for one unit in this building which has not had substantial renovations and in the other one where it has had substantial renovations it is $800. I am just using simple numbers. That discrepancy would always be built in to the benefit of the people who are in the buildings that did not have substantial renovations before this fund came along that you are suggesting.

Mr Allick: But if we look at it that way, the introduction of the Fire Marshals Act, the fire code, in effect created two standards of buildings. So if we look back in history on the legislation, your legislation has always done something to differentiate those things.

Mr Turnbull: It did not have that significant impact in terms of the income of the building or the cost of maintaining the building. There was an impact, but not of the magnitude of 100%. I know it is difficult. There are no simple answers to any of this.

Mr Allick: As I indicated, sir, the financial—

Mr Turnbull: Yes, I understand. Would you advocate the continuance of the property standards board in the province?

Mr Allick: The Residential Rental Standards Board?

Mr Turnbull: Yes.

Mr Allick: I think it is a duplication of what the municipality does.

Mr Turnbull: So you would advocate having strong municipal inspection with some, from what you have said, differentiation as to where in the province it is.

Mr Allick: The province presently has its own rental offices throughout the province. I think those rental offices could be utilized in conjunction with the municipal property standards offices to create the scenario that you want to create, that the government wants to create, without this duplication at Queen's Park.

Mr Turnbull: You would like to see a set of clear definitions which would guide you in application of the bill?

Mr Allick: Yes.

The Vice-Chair: Thank you you very much for appearing this morning. We appreciated the view from the ground.

The committee will take a short recess and reconvene in committee room 1 at 1155. Public hearings will resume in this room at 2 pm.

The committee recessed at 1142.

The committee resumed at 1202 in committee room 1.

MINISTRY OF HOUSING

The Vice-Chair: We now have the Ministry of Housing people before us. I understand in talking to them that they have a list of concerns that members have brought forward and would like responses to. The ministry could, if it is the desire of the committee, go through those. After that, we can ask questions in some kind of rotation. I think if possible, and if it is the agreement of the committee, we could be a little bit more informal in terms of asking questions because there may be some issues the ministry raises as clarifications that members want further clarified. If that is how we want to approach this, I think that would be the best procedure.

Ms Parrish: For the purposes of Hansard, I am Colleen Parrish, director of housing policy at the Ministry of Housing. I should say that we provided to Deborah Deller some material that I guess you probably have on your desk by now. One is a very small matter which I thought I would dispose of right away.

I understand that earlier this week there was some discussion about the Ontario Housing Corp and what its tender procedures are and whether or not it in fact tenders for things and so on. We provided the committee with a short form of the requirements for tender at OHC, showing the tender requirements for items that do not require a tender, which are very minor items of less than $1,000, through to the various gradations of tender requirements.

I was not exactly sure why the committee wanted this, so I simply provided it and if there are further questions on that point, I think the material shows that the rules at OHC are fairly strict about what is tendered. They have a number of full-form tenders, depending on the size of the project, and they also have special provisions that deal with emergency repairs. Perhaps having just tabled that information would be adequate for the committee.

Mr Perruzza: Just to take up on that, do you have any statistics on how favourable our tenders are compared to those in the private sector for the same work? A lawyer appeared before us this week and he flippantly drew some

conclusions about how it costs government much more than it does the private sector to do things and that kind of thing. Some of us challenged him on that. I am just wondering if you have any documentation that would dispute that one way or the other.

Ms Parrish: I am not familiar with any documentation that has studied that issue directly. I only know that on discussion with people from OHC, they indicated to me that they tender everything unless it is an emergency and that they have a very strict tender process designed to ensure a good-quality product and a reasonable price. The procurement practices of private sector firms are generally not known to the public unless they are publicly listed firms that must undergo certain disclosures. So I am really not in a position to say how these larger groups procure and whether they go through a formal tender process, except anecdotally. I have had some landlords say they do go through a tendering process but only for projects above a certain size. That is about the best information we could obtain in the relatively short time we had.

Mr Mammoliti: I brought this up yesterday because I felt that something one of the presenters said yesterday was inaccurate, that we pay top buck in the Ontario Housing Corp for maintenance work. Coming from the Ontario Housing Corp myself, working there for 12 years, I know this is not the case and in essence it is the complete opposite at times where we are paying probably the cheapest buck because of our tendering process. We have gotten a lot of complaints actually over the years, both from the tenants—

Mr Tilson: Mr Chair, a point of order: It is nice to hear all this but I am here to hear the ministry officials, quite frankly.

Mr Mammoliti: You do not like to hear what truth they say.

Mr Tilson: I could hear from you again, but time is limited.

The Vice-Chair: If we want to do this informally, we are going to have to do it informally. We have cautioned members. I think we have had an answer to that question and we should move along. Ms Poole and Mr Ruprecht also have questions.

Mr Mammoliti: With all due respect, I tried to bring this up yesterday and I was cut off. Today I am bringing it up again through the formalities and I am being cut off again. It is a little unfair. I think I should get my point across here.

The Vice-Chair: I do not have a problem with that, but the only option the Chair has in this situation is to preclude all questions and go through this in strict party rotation without—

Mr Mammoliti: That is the way to go.

Mr Perruzza: That is the only way you are going to get to it.

The Vice-Chair: If that is what you want to do, then I am very happy with that. I was hoping this could be a little bit more informal.

Mr Mammoliti: Again, I was not going to take that along with it. I thought it was important to clear the air on this particular item, and for the purposes of Hansard I think it is important. We had somebody—his name was Mr Miller, I believe—yesterday who alluded to the fact that we are spending top buck on maintenance and I want to prove to you that we are not and we have the officials here to verify this. Can I continue?

The Vice-Chair: Sure.

Mr Mammoliti: All right. In the past we have had a number of complaints both from tenants and from the contractors themselves who have said that the process itself is not that great. We talked about tendering and the fact that it usually results in the cheapest, both of material and quality. I know that, on a personal note, I have been looking into that over the past 12 years to figure out a better way of doing things. Just for the record, I would like to say—and perhaps you can comment on this and say whether I am right or wrong—that it is usually the complete opposite of what Mr Miller said yesterday. We usually do not pay top buck; we usually pay the cheaper buck to get a reasonable maintenance of whatever we are talking about, whether plumbing, heating, electrical or whatever. The tendering process is there for most things, three prices. Am I right?

Ms Parrish: There are requirements to tender and one of the major considerations in tender is price. Another consideration of tender, of course, is quality and the track record of the person doing it. Certainly price is a major consideration. The other two things are of consideration in tender as well. In some cases there are more than three tenders required. It depends on the size of the contract.

Mr Mammoliti: So we are not paying top buck as was alluded to yesterday?

Ms Parrish: From my discussion with OHC people last night, it would appear that this is not likely the case, but I cannot speak from my personal knowledge since I do not work at OHC myself. Of course, as we did not hear about this problem until after 6, there was a limited number of people I could talk about it with.

Mr Mammoliti: You answered my question. That is okay.

1210

Mr Ruprecht: I had received what I would term a complaint about the tendering process at OHC. Is it necessarily true that some of the buildings are looking to the United States, the security systems especially, and then in the tendering process you would have an itemized listing of this particular security system and its specific numbers, a camera or screws or very specific security arrangements that are only made by one company in the States? When a tender of that nature comes out—and let's assume it is true because I have written a letter; in fact I have not received the answer yet—but if it is the case that the tendering process would preclude Canadian-made security systems or others, then the tendering process would seem to me to be somewhat skewed. I do not know whether you are ready to answer this point, but could you give me an indication that this should probably not be the case?

Ms Parrish: I have to say, sir, I apologize, but I really do not feel I can answer that question. I am not familiar with the problem. I am more familiar with Bill 121. It is not an issue directly related to rent control. I can, when I

go back to the office, point out that you have not received a response to your letter and you would like to have a response to your letter. Perhaps that would be the most helpful thing I could do to answer your question.

Mr Ruprecht: It has only been two weeks for the letter. I would not be as concerned about the letter as I would that the tendering process would exclude comparable or Canadian-made product. You may just look into that.

Ms Parrish: I will pass on that.

Ms Poole: On the whole issue of the OHC and non-profit subsidized housing, recently when Cityhome, obviously from the city of Toronto, tabled its annual report, it indicated there would be a 9% increase in operating costs. Have you done any investigation of this because, obviously, when we are setting the guideline, when we are ensuring that the operating costs, inflationary component is adequate and all this type of thing, it is important that we look at the full rental housing market, not only the private rental stock, but also the subsidized housing to see whether what we have said is realistic. Have you had a chance to analyse the Cityhome figures and see why those operating expense increases are so high?

Ms Parrish: We have looked at the Cityhome rent increases, I think, over the last two years and the answer I am going to give you is a little bit complicated. Cityhome operates housing under several programs and the rent increases are differential depending on the program they are operated under.

For example, there is a federal-provincial program in which the rent increases have consistently been below guideline over time and the operating costs increases associated have been below guideline. There have been other programs which, because of the different ways the program is financed, have generated higher increases in rent. Last year, one program was at 10 and this year at 7, I believe. So essentially, what has tended to happen is that the rent increases at Cityhome have tended to be more closely related to the kind of program than to the operating structure.

In general, interestingly enough, the newer programs tend to generate the higher increases which would not be what you would expect because there are generally more buildings. Why is this occurring? We are still in the process of discussing that with Cityhome staff. When we got the initial information about rent levels, it seemed to be counter-intuitive. The older programs appeared to have lower rents, below guideline; the newer programs, the higher rents. We are still trying to find out exactly why that is. It looks to me like it is more to do with financing and the way the subsidies are being flowed than it has to do with operating costs.

I cannot give you a complete answer. I can say there have been some fairly high rents in the market component at Cityhome. I should also say those programs that have experienced those relatively high market rent increases, 10.5% and 10.7%, have been in buildings with very high levels of RGI. So 80% of the people have been RGI and the proportion of tenants who are paying market rent has been very small anyway. That is as far as we got. Having got that information, it appears to me that there is no good explanation and so we are looking into it further from a research viewpoint.

The Vice-Chair: Ms Parrish, just to be helpful for Hansard purposes, what is RGI?

Ms Parrish: Rent-geared-to-income housing. That is, the rent paid by the individuals is based on their income and not on the market rent.

Ms Poole: I would very much appreciate receiving a copy of that analysis when it is available. Leading from that question is a very natural one which many tenants and landlords have brought up for two very different reasons. Landlords believe the non-profit subsidized housing should be included under rent control because that would make sure it was a level playing field. Tenants believe they should be included, with the exception of co-operative housing, because those tenants deserve the same protection as those in the private sector. Would you like to comment on why non-profit housing was not included under the orbit of Bill 121?

Ms Parrish: The answer is somewhat complex. I guess I would start out by saying that Ontario housing programs do not distinguish between co-operative housing and non-profit housing. It would be very difficult to do what many people have asked us to do, which is to include non-profit market housing and not co-op because from our viewpoint they are more or less the same program. From that viewpoint, if you say it is all the same, it is difficult to make that distinction.

One of the major reasons it was not appropriate to include them in the statute, and indeed they were not included under the previous statute either, is that the vast majority of units in these dwelling places are rent-geared-to-income units. If you had rent control imposed only on the market units, you would have a significant problem trying to figure out what costs are associated with what. If you have a building where the units vary—for example, you might have 70% of the units in RGI one month and 80% the next and 50% the next or whatever—it is very difficult to say which units would be covered by rent control and which would not because there would be this constant moving in and out because.

Normally we cover the unit in rent control. We register the rent of the unit in the registry. We control the rent of that unit. What happens, of course, in rent-geared-to-income housing is that we provide housing to the people who live in the unit. So we would have this very difficult situation of having to constantly track which costs were attributable to that unit over time.

If you decided to cover all these non-profit and co-op units by rent control, they would be covered for one year, then the next five years they would have a rent-geared-to-income housing person there. During this period there would be guideline increases and perhaps operating cost increases and capital increases, so you would have to go through some sort of artificial allocation to this unit. Then when it came out you would have to figure out what the rent was and then put it back in. It might be in the market for another two years. It might come back out again. The logistics of doing this would be fairly onerous.

In addition, all of these kinds of housing already receive very significant government funding subsidies so there is already a significant control over the units in terms of the subsidy flow, the program flow and so on. It would be very difficult, given the fact that the vast majority of units in these buildings are rent-geared-to-income, to really design a system that would be fair to the people in the building. I think it would be very difficult to do, plus it would be very difficult to distinguish between the co-op and not-for-profit, because from our viewpoint they are all the same programs. There is no program distinction. There is a distinction in terms of how their rents are set in the sense that they have more input in the co-ops than they do in the not-for-profit units, but it would be difficult from a straight program viewpoint to do what people are asking us to do.

I have some sympathy with what people want to do in this area. I understand why they want that and why they think it would be appropriate. On the other hand, it would be a very difficult thing to do from a straight logistics and management viewpoint. There would be tremendous incentive to move the allocations around in a building. If you did a roof, then the big debate would be how much of this roof is attributable to the rent-geared-to-income housing units and how much is attributable to the market unit houses. This goes on for 15 years, because this roof repair is amortized over 15 years. It would be a logistically very difficult thing to do. I am not sure if there would be a significant gain or advantage to the individuals in the housing.

1220

Ms Poole: Did you have any report or study or any preparatory work that you had instigated in order to reach the conclusion you have that might be made available for committee members?

Ms Parrish: I could provide a summary of the points that I have made and talk about some of the considerations that we looked at in looking at the programs, the proportion of rent-geared-to-income housing that we find in these units and the fact that there is fluctuation, if that would be of some help.

Ms Poole: That would be quite helpful.

Ms Parrish: There was not a formal study.

Ms Poole: Mr Chair, that does bring up a problem that we have. The hearings are concluding this week and over the following two weeks members will be taking a look at amendments. However, when I contacted Hansard yesterday to get the Hansards from last week's ministry presentation, I was told that they are not available in any form, instant or otherwise, at this stage. It is going to be very difficult for us to formulate these amendments and take a real look at what the witnesses said if we cannot somehow get that process speeded up.

The Vice-Chair: I understand your problem and the problem of all the committee members. I would think that if the ministry wants to make a request—

Clerk of the Committee: No, the committee.

The Vice-Chair: If the committee wants to make a request—you are off the hook, ministry—and ask Hansard to make it a priority to report on this committee, then we can have those more quickly, I am told.

Ms Poole: I would certainly be pleased to make that motion as long as other members consent.

The Vice-Chair: Does anyone else wish to speak on Ms Poole's motion? Is it the pleasure of the committee that the motion carry? Carried.

Ms Poole: With great pleasure.

The Vice-Chair: Mr Turnbull had some questions.

Mr Turnbull: As you know, the Conservative position is that we believe we should have moneys targeted to those people most in need. Of course, this begs the question as to where the money would come from. I want to pursue some questions on the funding of non-profit co-ops. We have two levels of rent in these non-profit co-ops. We have the rent-geared-to-income and then we have the so-called market rent situations.

I am using this specific example, and I am bringing this just from memory: A non-profit co-op was funded by the government in Scarborough last fall. I asked a question at the time in the House and did not get a satisfactory answer. From memory, the building was about 70 units and about 51 of them were subsidized. The press release that the ministry issued gave the minimum annual subsidy, and I emphasize the word "minimum."

By taking that minimum annual subsidy and dividing it by the number of subsidized units, I arrived at a number with which I was able to then calculate how much mortgage that would bear, and in fact I used current interest rates on the mortgage, as I checked with a trust company, and I used a 25-year amortization as compared with the 35-year amortization which is typically used on these non-profit co-ops. So the cost would be even more burdensome. I am taking the worst-case scenario. It might be even more than this, but the equivalency of that subsidy on a per-unit basis was to buying a mortgage on a property worth $235,000 per unit.

At the time, as I pointed out in the House, there was a for-profit—you know, that dirty word that the government does not like—available in the press, some for-profit condominiums advertised in Scarborough at $135,000, in other words, $100,000 less. Or putting it another way, one could have gone out and bought a new single-family detached house for these people for the same amount of money or less at the time. Could you explain to me the rationale in paying such vastly inflated amounts of money for non-profit co-ops as compared with making this money available in rent subsidies?

Ms Parrish: I am not familiar with the project that you have discussed, and I have to say I did not—perhaps I should have but I did not—anticipate having to answer questions about funding of non-profit housing, so I have not prepared for that answer.

There are two kinds of subsidies that non-profit housing receives, whether they are co-op or not-for-profit. We do not distinguish between those kinds of developments in our programs. The federal government does, but we treat ours the same. The first kind is what is called a rent-geared-to-income subsidy, which is a subsidy to allow people who have low income to stay in that unit and the government

essentially pays the difference between 25% of their income and the market cost of the unit.

There is a second kind of subsidy, which is the building subsidy or the bridge subsidy, which is the amount of money which is needed to pay for the costs of the building above and beyond the amount of income generated from rent-geared-to-income housing and the market rents that are generated by these buildings. Over time the bridge subsidy is withdrawn as the building becomes increasingly more able to pay for itself. The rent-geared-to-income subsidy is never withdrawn, because it is always based on the income of the individuals in the building.

It does not matter what kind of building you have; you have rent-geared-to-income subsidy. For example, if you bought all those condominium buildings and paid rent-geared-to-income in that way, you would have to pay that income subsidy, because those people would probably not be able to afford the rents in the condominium either. Many people prefer that system. They call that a shelter subsidy, as opposed to the other system, which combines shelter subsidy and building subsidy.

That debate about whether these various kinds of subsidies are good or bad—as I said, there are two sides to this opinion. The one comment I would make is that shelter subsidies are most likely to work in populations which are stable. For example, many European countries do not have growth in population and therefore shelter subsidy systems work fairly well in those countries because they do not have a significant demand for supply because their populations are stable. Many of the Scandinavian countries, Germany and so on, have relatively stable or even declining populations. In populations that experience significant growth like Ontario, which is having no stimulus to supply, it means that you probably will have a permanent shortage of rental housing.

1230

Mr Turnbull: I think you have put your finger on the problem. There is no stimulus to supply as long as you have control of the rents. Certainly a five-year window, as was presented by the Canadian Bankers Association this morning, is an insufficient time to see any light at the end of the tunnel. Indeed the private sector is going to look somewhat askance at governments of any stripe that will pass retroactive legislation to effectively confiscate the value of their equity from them. But I am talking about this vastly inflated amount of money that this government is paying to create non-profit co-ops as compared with the private sector, as evidenced by my example.

Ms Parrish: As I said before, I cannot speak to your specific example. What I can say is that the goal of the creation of non-profit housing by either the federal government, which has been doing this for many years, and the provincial government, which has been a more recent arrival to this activity other than as a partner to the federal government, has been to create housing which is affordable in the long term. Market housing can sometimes be affordable in the long term and is sometimes only affordable for a short period of time.

Mr Turnbull: Would it not be reasonable for government to utilize those short-term periods when it is available at below the cost that government—let's assume that is correct, what you said, that it is only a short-term affair. You then buy units at below the cost at which non-profit co-operatives can produce it.

Ms Parrish: There are situations in which the non-profit housing is created through purchase of existing buildings and turning them into co-operatives—and that has occurred and our programs would provide for that—and there have been cases, which are usually referred to as turnkey, in which the non-profit developer simply purchases an existing condominium or purchases essentially land which has been zoned for condominium development and builds non-profit multi-use buildings on it. That does occur.

Mr Turnbull: You raised some very interesting points here. For example, there is a joint venture between the Metro tenants' organization and some other organization that buys existing apartment buildings. I have been through the program, and it is quite clearly a waste of taxpayers' money. First of all, they only want to buy apartment buildings where the rents are high enough that they say they can justify it. There are many people in the private sector who own low-cost apartment buildings, and they are being told by this so-called non-profit sector it cannot afford to turn them into non-profit co-ops because the rents are not high enough. Could you comment on that?

Ms Parrish: I am not familiar with these cases. It would not surprise me if the co-ops in the current market are trying to get as good a buy as they can. We encourage them to do that and we encourage them to get a good deal.

Mr Turnbull: But they are not going after the good deals; they are going after places with higher rents.

Ms Parrish: I really cannot comment on that. I have to say I did not prepare for these questions, because I anticipated talking about Bill 121. I do not mean that in any disrespectful way, I just did not think of preparing for this line of questioning.

Ms Poole: On a point of order, Mr Chair: Mr Turnbull has raised some very valid questions, but I am not sure that staff is the appropriate level at which these questions can be asked. I am assuming, and perhaps I am erroneous in this, that the minister will be joining us once we started clause-by-clause and will be making all these statements. This is perhaps something that it might be more appropriate to continue with the minister and ask exactly what the political agenda is for the development of co-operative housing and for housing within the private sector.

The Vice-Chair: That is not really a point of order. We tried to close this discussion earlier without any success. I just point out, though, that we have discussed for 35 minutes what the ministry brought before us as what was said to be just a clarification of the process.

Ms Parrish: I apologize, Mr Chairman.

Ms Harrington: Point of order.

The Vice-Chair: Perhaps in the interest of moving this discussion along though, we could deal with what the ministry has been asked by the committee to provide. That

might expedite the process because we only have 1 hour and 25 minutes left.

Ms Harrington: A point of order, Mr Chair. Two points of order actually.

The Vice-Chair: We will do one at a time.

Ms Harrington: First of all, I do not believe Mr Turnbull's comments were directed at amendments to this bill or improving this bill, which is what we are trying to deal with. I would like to tell him that certainly the ministry is looking at various options, and some of your suggestions are much larger than rent control—

The Vice-Chair: That is not a point of order.

Mr Turnbull: Mr Chair, if we are to allow speeches, I would like a response to this.

The Vice-Chair: What is the second point of order?

Ms Harrington: It was my understanding that I you were going party by party. At this particular time we have not reached that stage yet, I gather.

The Vice-Chair: I would point out that your party started. Mr Perruzza and Mr Mammoliti have already spoken to this particular item.

Ms Harrington: I see. I was under the understanding that we had got on to other subjects.

The Vice-Chair: I was not actually going party by party. I was just trying, foolishly I guess, to be non-partisan and to elicit some answers from the ministry that all members would like.

Ms Harrington: Could I ask that possibly at this time we could ask the ministry staff to give their presentation?

The Vice-Chair: I think that is what I just said.

Ms Harrington: I would appreciate that. Thank you very much.

The Vice-Chair: So, Ms Parrish, if you would like to continue on your second probably insignificant point that we will go for an hour on.

Ms Parrish: The second one is an issue that I think has come up quite a bit and that is search and seizure. We have prepared a letter for the committee. I did not realize that Mr Mancini would not be here today, so it is addressed to him. I believe there was a copy circulated to everybody. Does everyone have a copy? It is addressed to Mr Mancini and it starts out, "This will respond to certain questions about powers of entry and the Rent Control Act."

I did review some of the comments and I spoke to my staff about issues that were raised, and we tried to capture the questions that were asked in the committee. I think we have them all. There may be a few questions we did not quite pick up in terms of the rapidity of people asking questions.

I would point out that Bill 121 has quite a few sections that deal with powers of entry and warrants and inspection. It may seem that there is a lot on powers of entry. One of the reasons that there appears to be a lot is that we have spelled out in much greater detail than other statutes have done how these powers work and what their restrictions are. In general, that is a coming thing, in the sense that there has been more case law that has appeared over the last few years under the charter that gives some guidance to the provinces as to the appropriate constraints they should be putting in statutes to deal with search, inspection and seizure powers. The act before you has more detail in it because that is the approach that is being taken in most new provincial statutes, now that we have more guidance from the courts on search and seizure powers.

There is one thing that would be useful as a point of clarification. The law, as I understand it, places a higher protection on dwelling units because of the right of privacy than it does on any other area. This statute provides that you cannot enter a dwelling place unless you have consent of the occupier or you have a warrant. It does not matter whether or not the occupier of the dwelling unit is a landlord or a tenant; the rules are the same.

1240

If you had a situation where a landlord lived in an apartment building and had one of those units and had, for example, his business records in that unit, you would not be allowed to enter without a warrant or consent. The law protects the dwelling unit. It is not a question of it protecting landlords or tenants—

Mr Tilson: The act says "any place."

Ms Parrish: There are special rules that relate to dwelling units. What the statute says is that there is an absolute protection on dwelling units that requires consent or a warrant. Where there is no consent and no warrant we can inspect, but we have to give reasonable prior notice of inspection, the inspector must show his certificate of appointment and the inspection has to occur between 7 am and 9 pm.

Mr Tilson: You cannot enter any place, that is quite clear.

Ms Parrish: It is quite clear that you cannot enter a dwelling unit.

Mr Tilson: I see clause 113(3)(a).

The Vice-Chair: Let us do this in some kind of order. If Ms Parrish is finished that particular statement, then I think I will give each party five minutes to clarify its position. This is obviously an important issue that members have raised on a number of occasions. If you are finished your clarification, we will try to further clarify it with members' questions.

Ms Parrish: Okay, I just would point out subsection 113(7), which says, "A person shall not exercise a power of entry to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 114."

The question was asked as to what an occupier is, and I think the letter does attempt to deal with that. It tries to deal with the issue of notice, and I would just summarize by saying that the current Bill 121 provides for more restrictive powers than the current law, than Bill 51, and that is because since Bill 51 was enacted we have more guidance from the courts as to what is appropriate to protect privacy.

I would also like to point out that during the course of presentations and comments made on search and seizure there were two points that were brought to the attention of

the ministry that I think have some merit for further consideration. One is the issue of what happens when something is seized by the ministry, for example, records. We say we have to give a receipt, and we also say that we have to copy them and give them back as soon as practicable. In the meantime, there might be some problem and the landlord needs access to these records and we are copying them or whatever. Some people have made the comment that there should be provision for access to records held by the ministry during this period of copying or whatever, and I think there is some legitimacy to that point and we are looking into that.

Second, some people have commented that it would be useful or perhaps appropriate to have more specific powers illuminated in section 113 of the statute indicating exactly what the circumstances are in which you can use the powers of entry. In discussion with my colleague Nancy Makepeace, who is a solicitor in our branch, and with the Ministry of the Attorney-General, we also think that point has some merit, and we would be looking to seek some guidance on that from the minister.

However, I think it is the case that the powers of entry in this current statute are more restrictive and have a higher standard of protection, particularly for dwelling units, than the current law and that these provisions are very widespread. We have given you a list of statutes in which more intrusive provisions exist, but my understanding is that there are over 1,300 statutes in Ontario with power of entry provisions. We only gave you the most immediate and directly applicable provisions.

The Vice-Chair: I think I will start with the Conservatives. Mr Tilson, five minutes to clarify whatever you wish.

Mr Tilson: The act appears to allow the inspectors to seize anything they wish, and there do not seem to be any guidelines as to what they can or cannot seize. They could seize photographs, they could seize books, they could seize—well, I have given the example in the past, diaries. I know it sounds silly, but they could seize anything.

You say there are 113 pieces of legislation where police powers are given to government officials. I think that maybe we are getting too many. Maybe we are getting too much police interference. But my question to you is, if this does carry, and I hope it does not, should there be a procedure for an independent body to determine what should be seized and what should not be seized, such as a court, for example? In other words, the inspector comes in, grabs a whole roomful of things, whether they are documents or things or objects, and before that person's privacy is taken away any more, those items are bundled up, secured and taken to an independent body, such as a judge, who would decide whether or not the inspector can unilaterally decide in his or her discretion what can be taken.

Ms Parrish: I would say then if you require a warrant, and it seems likely that you would require a warrant to take a diary because it is likely that it would be a dwelling place, you have to justify the purposes of the warrant before a judicial officer, a JP. That is the same procedure which is used under the Provincial Offences Act in Ontario for all provincial offences, so there is a judicial officer who does look at that.

Second, you are constrained. You can only seize things which are relevant to the inspection. I am not sure how this diary became relevant to the inspection, but it seems unlikely to me it would be. In any event, you can only seize things which are relevant to the inspection, and what is relevant to the inspection is specifically indicated. It says in clause 113(3), "An inspector exercising a power of entry may...(b) require the production and inspection of records or other things that may be relevant to the inspection." So it must be relevant.

I guess there is some concern about whether or not we should be spelling out in greater detail in section 113 exactly what you can do, or you can inspect to see whether or not standards are met, for example, and so on. We are looking at whether we should make that a little bit more specific. But I think it is already very clear, as it is under the Provincial Offences Act, that you can only seize things which are relevant to the power that you have to enter, which is related either to the inspection or to the warrant you have received.

Mr Tilson: That is not my point. My point is that, first of all, the justice of the peace who issues this warrant has not seen what is going to be seized. Therefore the discretion as to what is going to be seized is left because the inspector has not seen anything yet. He has not seen what is in there. So the inspector can simply go and grab what he or she likes, take it away and, at his or her discretion, decide whether it is relevant or not, because the justice of the peace has not even seen it yet.

My question is whether items that do not even belong to the landlord or owner could be seized under this legislation. Second, it is my understanding from reading this section that you cannot enter a dwelling place without the consent of the occupier, but that does not preclude a warrant being issued to enter a dwelling place. Section 114 certainly allows, coupled with subsection 113(3), if reasonable grounds are given, an inspector to enter a dwelling place. So what you have said is not quite correct. You cannot enter a dwelling place unless consent is given, but if consent is not given you then look to section 114, in which case you can certainly get a warrant to enter a dwelling place.

Ms Parrish: What I said was that if you want to enter a dwelling place you must have either consent or a warrant.

Mr Tilson: Of course. I am saying that you certainly can enter.

The Vice-Chair: Mr Tilson, your five minutes are gone. I am sure the clause-by-clause will be quite interesting. Ms Harrington.

Ms Harrington: It is just on this particular topic?

The Vice-Chair: Right. The more time we save the more we can use for something else.

Ms Harrington: Very briefly how would you describe the difference in what is allowed in this particular aspect of the bill between Bill 51 and Bill 121?

1250

Ms Parrish: These provisions are more restrictive than in Bill 51. In specific, Bill 121 says what the purpose of the inspection is, sets out the scope of the investigation and so on, and one of the things we are looking at is whether we should even increase that specificity. Bill 51 simply provided for a fairly open kind of ability with no restrictions. Bill 121 provides that you have to have reasonable prior notice of inspection to be given where there is not a warrant. The Residential Rent Regulation Act had no requirement notice for ministry inspection. You had to have adequate prior written notice for a standards board inspection. These are probably similar although the language is slightly different. I think that "reasonable" is a stronger test than "adequate." However, that is probably debatable.

Bill 121 requires that you identify yourself with a certificate of appointment and not just a general driver's licence or whatever, so in order to inspect you have to actually say, "I am an inspector and I have been appointed to be an inspector," so there can be no doubt as to who the heck you are and what you are doing there.

Bill 121 does have limitations as to when the inspection can occur, ie, between 7 am and 9 pm. RRRA did not indicate any time restriction at all. A standards board inspection could occur at "any reasonable time." Again, Bill 121 has stronger protections because, when seeking consent to enter a dwelling place, the inspector is required to say to the individual in the dwelling place, whether a landlord or a tenant: "You do not have to give me your consent. You can refuse to give me your consent and you can insist that I require a warrant." The RRRA did not have that for ministry inspections but did have that for standards board, so it increases the amount of protections that I found.

That is why these provisions are longer. There are more restrictions on the powers in Bill 121 than in the current statute we are administering.

Ms Harrington: I would like to clarify once and for all, is there any foundation at all to the innuendo or the statements that we have heard around that there will be some kind of harassment from some kind of rent police under this legislation? It seems to me from what you have just said that it is entirely somebody's dream and that, in effect, under the previous legislation that was much more of a possible threat.

Ms Parrish: I was not actually at the committee hearings where this particular discussion took place, so I cannot comment except to say the protections in Bill 121 are greater than the protections in the current statute and they are comparable or of superior protection to the privacy of landlords and tenants involved than most current statutes.

The provisions related to offences are identical to those of the Provincial Offences Act, which is the law of general application in Ontario. There is certainly nothing unusual about these provisions, except to say they probably have a higher degree of protection for dwelling units and more constraints upon the actions of inspectors than the current law. The only unusual thing about them is they have more protections and that, I think, is where the law is going generally. I think in future you will see more statutes that look like this and have these kinds of protections for dwelling units.

Ms Harrington: There appears to be, from any rational outcome, no foundation for this fear at all. Thank you very much.

The Vice-Chair: Both Ms Poole and Mr Callahan have an opportunity to ask questions for five minutes here. Ms Poole first.

Mr Callahan: Could I just ask very quickly and then I will get out of the way? Is that consent going to be verbal consent? Because if it is I can see you are going to have a whole backlog of court processes. I would suggest, if you are going to do consent, it should be in writing to make certain that issue is not an issue that gets voir-dired at the beginning of any procedure or gets used on the quashing of search warrants. We have got all that stuff today. I could read them off, "I read him his rights." It falls off the lips just like verbatim.

Mr Tilson: You got a right to a lawyer?

Mr Callahan: Yes, you got a right to a lawyer. You got to remain silent. All this stuff. I would suggest if you really want to protect them, you better make it in writing so they understand. That is all I have to say.

Ms Parrish: That is something we can look at. There are statutes that require these in writing. It is also the downside of trying to communicate in a manner which does not intimidate people. That is an issue, I think.

Ms Poole: The first section I would like to clarify relates to the section on powers of entry and to whom it applies.

We had a presentation from the association relating to building inspectors this morning. I cannot remember the specific name. He was saying one of the biggest problem they have with enforcement is the fact they do not have the power of entry. Later, the gentleman was telling me that the building code does not give them adequate power of entry except for things like fire—safety standards but not property standards. He saw this as a great deficiency.

Are the powers under sections 113 and 114 only for provincial inspectors or, for the purposes of this, could the director say that all municipal inspectors are appointed as provincial inspectors for the right of power of entry?

Ms Parrish: These powers only apply to ministry staff and ministry inspectors.

Ms Poole: So this does not solve the municipal building inspector's problem when he or she is just denied access to the building.

Ms Parrish: No, they would have to have their problem resolved under their own statutes. I have to say that what their problem is depends on what they are doing. For example, if they are wishing to enter for the purposes of a provincial offence and they have reasonable and probable grounds, they have to get a search warrant. If they have something to seize, they can get a search warrant saying, "I want to search this and seize it."

The problem they have, and that we would have had, had we not had our own provisions around warrants, is that by and large when you are doing an inspection you do not have anything to seize, so you cannot get into a search

warrant under the Provincial Offences Act because you are not going to search and seize anything. You cannot seize the hole in the wall or you cannot seize the lack of heating, so you cannot get a search warrant under the Provincial Offences Act. You have to get essentially an inspection warrant that allows you to enter for the purposes of inspection or this modified warrant that allows you to enter if you believe there is an offence and there is nothing to seize.

If you want to seize records, for example, you can simply depend on the powers that are already in the Provincial Offences Act, if there is something to seize. This is a long-standing problem in the Municipal Act, the Planning Act and so on.

Mr Ruprecht: Just a short question. I understood that Ontario Housing Corp had come to some kind of an agreement recently to permit the right of entry for purposes of searching for drugs. Could you update us on that briefly? What is the latest on that?

Ms Parrish: I will have to inquire. I do not know. I cannot say that I am a specialist in drug enforcement.

Mr Tilson: Inspectors will be.

Ms Parrish: As I recall, it has been quite some time since people have been able to have writs of assistance and that you have to have a search warrant for drugs. But it may very well be that what Ontario Housing is doing is giving the police wider access to common areas as opposed to dwelling units in order to facilitate the capturing of people who are terrorizing public housing communities. But I can only look into that issue. I cannot say that I know a great deal about it, except to know that there has been a desire to increase co-operation between the police and public housing without infringing on the privacy rights of the individuals.

The Vice-Chair: Ms Poole has a real quick one.

1300

Ms Poole: In relation to subsection 113(7), I want to be perfectly clear about this. If a landlord or a tenant lives in a unit and that is taken to be the dwelling, then there has to be either consent or warrant. However, I have two questions relating to that.

First of all, could a dwelling not be taken as the entire building? Could "occupier" not be taken to be the person who is working in that particular scenario? The second question I have is relating, am I perfectly correct in that if we are talking about an area that is not a dwelling, for instance, if they want to go into the landlord's offices, are they required then to get a warrant under 114 or is nothing required other than reasonable notice?

The Vice-Chair: Before you start to answer that question, the time has expired. What I think we will do for the next hour is go 10 minutes in rotation among the parties and they can ask about anything they want. Your time is on now for the Liberals and 10 minutes from now the Conservatives will be up. I think that is fair. Everybody will get 20 minutes.

Ms Poole: We are going until 2 o'clock?

The Vice-Chair: Yes.

Ms Poole: So would that be 20 minutes per party?

The Vice-Chair: Yes, but we will do it in 10-minute bites.

Ms Parrish: If it is clear that there is nobody living there, it is an office or a common area, then you do not have to have a warrant and you do not have to have consent. You just have to have reasonable prior notice. My understanding from my consultation with my colleague here is that a dwelling unit is a rental unit. Therefore, it has to be the rental unit. We can look into that further, but I think the answer is that a dwelling unit is the rental unit and not the common areas of the building or whatever. It has to be the rental unit of the individual.

The Vice-Chair: You can proceed with any other clarifications on the whole of Bill 121, Ms Poole, or Mr Callahan or Mr Ruprecht.

Ms Poole: I am going to leave the definitions of "neglect" and "inadequate maintenance" for some other caucus's time and then see how that goes for our second round.

I gave a list of requests to the ministry, which you are obviously working your way through, and any moment you are going to get to my requests, that I made on August 1. I asked for an explanation of why a cost-no-longer-borne provision is not in Bill 121. I asked for an opinion on the viability of separating property taxes for rent. In Windsor later on, I asked for a definition of "occupier" in subsection 114(7), and I think Dana touched on that this morning.

I have another list of questions. First of all, do you have available either a written or a verbal explanation of the cost-no-longer-borne provision?

Ms Parrish: I can speak to that issue. I just would say that the issue of definition of "occupier" is in the letter that we have just given you.

It is not completely the case that cost-no-longer-borne is not in the statute. It is in the statute in the same way as it was in Bill 51. That is, if you have a situation where the landlord replaced the stove and then comes along later and replace the stove again, you take out the allowance he has already received for the stove. So there is a form of cost-no-longer-borne provision there. But it would require the landlord to come back and reapply, so to that extent we have continued what the law was under Bill 51, which is that if the landlord does apply for the same item again he can have the allowance taken out.

I think what you are asking is whether there should be some sort of automatic provision where, for example, if the landlord gets an allowance for, say, a 10-year period to repair the roof, whether at the end of the 10-year period you should be taking out of the rent base the allowance he has received for the roof. Is that the question you are asking? That is a question that has come up quite a bit during the course of the debates and we are looking at that, as staff people, as to whether it is practicable.

The concern we have about it is not as much that we would be opposed to it as a matter of principle. The concern is largely how practical it is. It would involve a fairly sophisticated and complex tracking system. It would involve having landlords and tenants make calculations with these charges sort of held separately to one side, and when the guideline comes along, you put the guideline on part

and not all. There is already a fair bit of difficulty that we have every year that people cannot take their rent and multiply by 5% and figure this out.

Once we start adding complexities of saying, "Take this part of your rent, multiply that by five, add this, subtract this," there will be an increasing complexity and it will be harder and harder for landlords and tenants who are completely and totally honest and well intended to figure out what the rent is. We think that is a problem because, of course, whenever that happens, you are going to get a lot more illegal rent-taking and you are going to get completely innocent people making mistakes. So we are concerned about how practical it is, because with these very long amortization periods for capital repairs, we may be looking at trying to track 15 or 20 different allowances over a 20-year period, all coming in and out at various times. That could be quite complex for both the landlords and tenants.

It would also be relatively difficult for the ministry to maintain the information base and have a good registry. People are increasingly wanting us to have a very accurate registry, so we have that concern as well. The concerns we have about these provisions are not as much in principle, but more as to whether or not is going to be practical for the system to work and whether or not it would create more confusion that would be to the disadvantage of tenants than it would create advantages.

I am being very honest in saying that we are struggling with that issue. I think you have to balance the complexity of the system and the fairness and the number of rules you can devise, as to whether or not you really design a system which is in theory a good system but in practicality just breaks down.

Ms Poole: I understand what you are saying about the provision being the same in Bill 121 as in Bill 51. I had a problem with it in Bill 51 because what it does not do is take care of that gap between when the landlord finishes paying off the refrigerator and maybe that 15-year period before he or she buys a new one. I am sorry; I can understand that there is complexity, but in this day and age of computers and the fact that all this information should be put on computer at the time that rent review applications are made, I find it incomprehensible that we cannot work out the logistics.

It would seem to me one major purpose of the rent registry should be to take care of that. I agree with you that because of the complexity it would be very difficult to go back in time. I think you just have to start from whenever this act comes into force onward. But I think you should really take a look at what your computer system is doing if it cannot handle this kind of complexity. I think that is something we would certainly like to pursue later.

The second question that I have relates to the Royal LePage study. When we were talking about the calculation of the building operating cost index—

Mr Callahan: And residential complex cost index?

Ms Poole: BOCI and RCCI, yes. We are not supposed to call them that any more, but it takes a while to get our heads around it.

When we were talking with you the other day about the calculation of BOCI, I asked you why there was a differentiation between your statistics and those of the Fair Rental Policy Organization of Ontario as to the average—FRPO said it averaged 58% for inflation for operating costs, and you based yours on, I think, 44% to 48%.

I looked through the Royal LePage study and I had a couple of questions stemming from it. The first relates to how accurate the study is. This really goes back to the purpose of the study, which I understand is quite different than the material you are extrapolating it from, and how in-depth this update was when it was conducted. For instance, they say they only had one week from the time the ministry requested the information until the deadline when it had to be submitted to the ministry.

I would like to question the methodology. The buildings that they used in their sample were, I believe, resale buildings and buildings that were basically 22 years old or younger, which would make it almost virtually all high-rise buildings. I am wondering whether this invalidates some of the conclusions reached, because obviously the low-rise older housing stock would not be included. I am wondering if it is really right to make such a dramatic change to the BOCI formula when it does not seem to me this study was specifically prepared with that purpose in mind.

Go for it.

1310

Ms Parrish: The study was prepared essentially for the housing framework paper, which members may have seen, and I do not think we have ever made any secret of that. Let's put it this way. The current statute, Bill 51, says that RCCI is two thirds of BOCI plus 2%. There was never any study done on why it should be two thirds. It was simply agreed to by RRAC as essentially a sawoff. I have never seen any support at all for two thirds. Indeed, the study that was provided by FRPO does not support two thirds either. They show somewhere around 58% as their top of the range. Their range is somewhere between 51% and 58%. The ranges here are lower, but they are not greatly different.

I guess it is true that when you pick a formula there is always going to be, you know, should you pick 50%, 55%, 60%, 58%, whatever. I think what is clear is that two thirds is not the right number, that it likely has led to a higher guideline than might be appropriate. Certainly guidelines have been well above where you might have expected them to be in recent years. I do not think I can say with absolutely certainty that any study can show absolutely equivocally what the right number would be, but I would say that this study, combined with other material we have, would indicate that it would be below 60%.

The Vice-Chair: Okay, thank you. Mr Tilson, I have debited your account by two minutes.

Mr Tilson: The issue of mobile homes or land lease has been raised in Toronto and many of the cities that we have attended. We have had a great deal of difficulty dealing with applications or depositions made by not only the owners, but the people who are renting these units or lots. I think I commented at one of the hearings that for once we had both

landlords and tenants who could agree on something. They all agreed that either this should be a separate section within the bill dealing with those units, or a separate bill.

Of course, it has been drawn to our attention by Ms Harrington that there is an interministerial committee working on this. I would like you to inform us more about this interministerial committee: who is on it; whether we can refer these groups to that ministerial committee for consultation; confirmation as to whether you know when this committee will be making a report, and whether there is any usefulness in our committee, this particular committee here, passing on our comments to assist that committee in its deliberations.

Ms Parrish: There are representatives from a number of ministries on the committee. It is chaired by the Ministry of Housing. The chairman is a man called Vince Brescia, and Vince works in my branch. We have representatives from other areas of the Ministry of Housing, from the ministries of Revenue, Consumer and Commercial Relations, Environment, Municipal Affairs—I may have missed some—the Ministry of the Attorney General.

The goal of the staff level committee is essentially to describe or find out what the issues are and to develop enough information on that to come forward with a report. My understanding is they have had a series of meetings with almost all of the major mobile home park groups. I think some of the people who gave presentations before you commented that they had met with the committee and that they had, I guess in their view, had lots of opportunity to say what they thought. So that stage, I think, is pretty well completed, although the committee would certainly talk to anybody who wanted to talk to them.

Mr Tilson: How do they do that?

Ms Parrish: They can contact Vince directly in my branch. He is in the phone book and I can give his number to Deborah for the records.

I should say that I know the committee has prepared an internal draft of their report and that they are meeting during the month of September to finalize their report. At that stage I am not sure what will—

Mr Tilson: Whom are they reporting to?

Ms Parrish: They are reporting to their ministers, to the Minister of Housing and to her colleagues.

Mr Tilson: And this report will be made public?

Ms Parrish: I think that is one of the considerations the government will have to think about, what would be an appropriate next step. There are a number of ways they could proceed. They could say: "Here's the report of this committee. Let's have a consultation. What do you think, people in the world? Do you think we should do this? Does this look like a good idea or not?" That is one option. Another option might be to simply proceed with some recommendations. I do not know, to be honest.

As you know, we have had a change in minister, we have had a change in deputy minister. I have not briefed either the new deputy or the new minister yet, although we are scheduled to brief our new minister soon.

Mr Tilson: This committee may or may not see this report. That is what you are saying.

Ms Parrish: I cannot speak for the government. I can only say that the staff is doing the work. What the government will then decide is appropriate—they may feel it is appropriate to have a consultation, as we had on rent control, or they may feel that the issues are well known and that there has already been sufficient consultation and that they should simply proceed to address some of the issues that have been raised—I cannot prejudge. I do not know whether or not they feel another consultation process, some sort of green paper, would be appropriate, as we did with rent control, or whether they will say, "We already know quite a bit about this issue so perhaps we should proceed." Or perhaps they will feel they should not proceed.

Mr Tilson: Thank you. Do I have time for another question?

The Vice-Chair: You have almost five minutes.

Mr Tilson: During Bill 4 and during Bill 121, we have had many complaints from tenants as to the condition of the buildings, and obviously whoever drafted Bill 121 has attempted to deal with that issue.

One of the concerns I have, on which I would like you to comment with respect to specific sections, is how that is going to be dealt with. In other words, we have bylaw enforcement officers from municipalities, we have people from the province, we have inspectors under this bill. Who else do we have? Those are the three main groups, I suppose. There does not seem to be any solid group that is going to deal with the issue of maintenance, serious maintenance that perhaps does not comply with health or standards, throughout the province.

I guess I did ask the question specifically as to how these problems are going to be dealt with. The answer appeared to be given by one of the ministry officials. It appeared to be that if a municipality had a bylaw enforcement officer, that is the person one would go to. My concern is whether or not the ministry has taken any more consideration as to whether or not, because this is a provincial problem, this type of problem should be dealt with by the province as opposed to downloading it on to the municipalities.

Ms Parrish: I would say that the response we see from the municipalities and from AMO would indicate that their preference is to maintain jurisdiction over property standards and maintenance issues and that they would not welcome what they would view as the province coming in and saying, you know, this should be the standard for Hamilton, or whatever.

The approach taken by the province in Bill 121, which is similar to that taken in Bill 51, is that the province has a residual authority in relation to areas where there is no property standard being created and applied in jurisdictions that have exercised their powers and have taken the jurisdiction which they are given, that we should not be imposing our standards in substitution to theirs.

1320

Mr Tilson: That was the answer that was given before, and I appreciate that. I guess the real issue I am getting at

is that we are hearing particularly from tenants' groups, obviously from tenants' groups, saying the laws we have are not working. We are having photographs shown to us, not so much in the Bill 121 hearings but certainly in the Bill 4 hearings, of intolerable conditions that tenants are living under.

If they are to be believed, and I have no reason not to believe them, or we would have heard something from the owners of the buildings, the system we have of municipalities taking jurisdiction of this is not working. Yet in Bill 121 the province does seem to be getting into maintenance, because if certain standards are not met, rent will be frozen or reduced.

Obviously the provincial government is taking the position of trying to have it both ways. I am trying to say, should there not be some sort of semblance, some sort of reliance on a group that will actually take hold of this issue and deal with it as opposed to saying, "Oh, well, the municipality will solve it"? Maybe they will, maybe they will not.

Ms Parrish: The provisions in Bill 121 bolster the power of the municipalities by providing a much greater remedy. I think one of the problems that has occurred in the past is that not obeying the work order in a municipality has in many cases not led to very much of a penalty.

Most municipalities will prosecute only as a last resort, and when they do prosecute they get relatively light fines in many cases. That has often amounted essentially to a licence not to obey the standard. By having a connection between rent and work orders, I think the intention is to strengthen the hand of those people trying to enforce the statute by making a closer connection between an incentive which landlords are concerned about and obeying the law of Ontario.

Mr Tilson: What I am getting at is that hopefully you have heard some of the remarks made by tenants that obviously the system does not work, that there is confusion and that hopefully the government will consider amendments to make one group, as opposed to two groups, responsible for this issue.

If I could move into another area, that is the area that—

The Vice-Chair: You can in the next round, Mr Tilson.

Ms Harrington: I appreciate the concerns Mr Tilson has raised, and also Ms Poole. Certainly the maintenance provisions are something we want your help on. First I should mention that the issue of the mobile home parks seems to be very complex, certainly with so many ministries involved, and yet I believe it is of immediate concern, from what I am hearing in various ridings, of people being threatened with not having somewhere to live. I will let the minister and/or the deputy minister know that this committee has an interest. That is what I am hearing.

Mr Tilson: I think we are all concerned. As I say, for once the two groups are united and they are desperately looking for some guidance as to how to deal with these problems, so that hopefully—

Ms Harrington: I will at least let them know that we are interested and see if that is possible.

Mr Tilson: I think the members of the committee are united on that issue. The sooner this committee presents a report we can all look at, because so far we are just saying, "Oh, well, something will come in October"—but now I am told we may or may not hear from this committee, which is somewhat alarming.

Ms Harrington: I have several questions. I am not sure how many I will get to in this round. First of all, with regard to interest rate changes, we have heard a fair amount from the landlords about this and this morning we heard from the banking association. Is it at all possible that this could be put into the legislation with some kind of automatic going up or going down? I know there are problems, but how bad are the problems associated with that?

Ms Parrish: Bill 4 does provide for interest rate changes going up, so it is certainly not something which is not possible to do. Going down also could be done. It is an added complexity, but it is not an exceptionally difficult complexity. I think the problem is more with the automatic part. I am not exactly sure how that would work.

If landlords and tenants actually made applications, it would probably be fairly straightforward. It would increase workload obviously, and you know when you increase workload you increase costs to the system. There would be more complexity. The automatic part is more difficult, because it would involve having to monitor what the interest levels were on all these mortgages and then find out when they got renewed, because they could get renewed and nobody actually applied for anything and then you would have to find out what happened.

Of course people do not always renew their mortgage instruments at the end of the term. Sometimes they will pay a small penalty to move ahead in order to get a lower interest rate or some other advantage, or to remortgage or whatever. It is not always obvious. You cannot just say: "It's a five-year term. I'll look in five years later." That person could actually renew the mortgage six months later. The automatic part is what would be very difficult. If it were simply done on application up and down, it would be fairly straightforward.

The disadvantage of course would be that it would be relatively difficult for the tenants to have the same information as the landlords, which is always a disadvantage, an inherent unfairness. As I said, it is more the automatic part that would be very difficult to manage with any degree of integrity unless you said to people, "You can't renew your mortgage except." It is a bit like the cost-no-longer-borne provision, except that it is even more complex because at least with the amortization period you know it is going to be over in 10 years or 15 years.

You do not know when they are going to renew their mortgage, and unless you are prepared to say that you are going to prevent them from renewing their mortgages except on the date, it would be difficult to make it automatic as opposed to on application by landlords and tenants.

Ms Harrington: I will give Mr Glass a little chance here. I have heard certain concerns that the rent registry is still behind and yet I think I have heard from the ministry that things are looking fairly good. What is the actual state now?

Mr Glass: The rent registry is currently in the process of cleaning up a number of its records. We have records on

691,000 rental units in the province and we are in the process of correcting information that has been sent to us over the years in that area. We are in the process of completing what we call a historical order log, which is to put on file all the orders ever resolved under the various pieces of legislation in rent review for record purposes for people who wish to purchase buildings or investigate past history, and we are completing the entry of all current orders, which give us lawful maximum rents for about 451,000 units of the roughly 1.1 million units in the province.

All that work will be completed in the month of September and then we will return to issuing notifications under the legislation to obtain lawful maximum rents on the balance of the large buildings. Then under the proposed legislation we will go after lawful maximum rents for four, five and six units. We expect to issue notifications, which is our way of obtaining information on lawful maximum rents, starting about the end of September.

Ms Harrington: So if people ask, then we should be up to date in September.

Mr Glass: We will have our current information up to date. We will have complete information on larger building units, and by this I mean seven-plus units by the end of the fiscal year. Some time after the introduction of the new legislation, if it proceeds as prepared, we will have the four-, five- and six-unit size buildings.

Ms Harrington: Is all this on computer?

Mr Glass: Yes.

Ms Harrington: So if we want access to it, we can—

Mr Glass: Yes, it would be able to be accessed. It is on a mainframe computer and can be accessed through our local offices through a network program.

1330

Ms Harrington: I want a clarification. I know I have had trouble explaining sometimes that it is not just a 30-day period. Can you explain in a simple way how I should explain that for maintenance?

Ms Richardson: I suppose you are referring to the rent penalty provisions found in Bill 121.

Ms Harrington: Yes.

Ms Richardson: First of all, most of the rent penalty orders would result from a municipal work order that has been sent to the ministry. The 30-day period starts to run when the compliance date has expired on that municipal work order. That means that if the municipal work order says you have 30 days or 90 days to do something, that period must first expire before the 30 days would start to run.

The other point would be that this period would start to run when we have notice—"we" being the province—from the municipality that there is a work order and we would know when the expiry date happens, so if we do not receive a copy of a work order we would not actually start that 30 days running until we have that notice.

The 30-day period would start and in that 30 days it is a notice sent first of all to the landlord to say, "There will be a possible rent penalty unless within this 30 days there is proof that there has been compliance with the work order." A rent penalty would not be issued if indeed there is proof of that compliance within that 30-day period. That gives the landlord another 30 days' opportunity to bring the information forward that could actually prevent a rent penalty from being issued.

Ms Harrington: We have heard various concerns this morning, I think. One of our briefs said that if there were a strike in a certain industry or winter weather, this would cause hardship. Can you foresee any of those types of problems?

Ms Richardson: As I have said, it does depend on when the municipality sends us a copy of the work order. It is my understanding that a number of municipalities would grant extensions to individual landlords in circumstances like that. If that is the case, then their compliance period would not yet be up before the provincial period would start to run.

Ms Harrington: So we think reasonably that this would not be a problem.

The Vice-Chair: Five minutes, Ms Poole.

Ms Poole: You told me I used up two minutes of my second 10-minute round.

The Vice-Chair: I am going to move everyone else back so that it evens out, but if you have a check at the clock, five is good.

Ms Poole: It had better be a long five.

There are two areas that I want to discuss with you. One is a continuation of what Ms Harrington was talking about, the work orders, and the second is the neglect and inadequate maintenance.

First of all, with regard to the work orders and the rent penalties provision, this is basically very similar to the Liberal amendment under Bill 4 except that there are a number of quite substantive differences, at least in my mind. The first is that we had the standards board that was going to administer it. We did not rely on a rent review system, which may end up getting backlogged and where maintenance takes a second seat. Our evidence was that the problems with the standards board related to the fact that they had to go through rent review and that is where the backlog came in, not at the standards board.

The second was that we felt they should be work orders of a substantive nature, the physical integrity of the building being in jeopardy or the health and safety of the tenants, and that the rent penalty would come into effect if the landlord did not make reasonable attempts to comply. This would then leave open for the landlord a number of safeguards and they are actually contained in Bill 51 in clauses 15(9)(a), (b), (c). It says:

"(9) In deciding whether to make an order...the minister shall take into account,

"(a) the nature of the work required to be performed to comply with the maintenance and occupancy order and the history of the matter that is the subject of that order;

"(b) actual seasonal factors and financial constraints affecting the ability of the landlord to perform the required work; and

"(c) the availability of the persons and materials required to perform the required work."

I cannot comprehend for the life of me why you would take those provisions out of Bill 121. It is common sense. What this did was safeguard the landlords who were genuinely making an attempt to satisfy work orders but running into circumstances beyond their control. Those landlords I do not have a problem with. I have a problem with the ones like those down in Parkdale who abuse the system, who milk the tenants, who try to delay things and procrastinate and go to court, and to me we have missed the point of this.

I like a number of things about what you have done. I like your intent, but without that safeguard, we are going to have ordinary, law-abiding landlords who get caught in a catch-22 situation. Maybe you could explain why those safeguards under clauses 15(9)(a), (b), (c) are not in this legislation.

Ms Parrish: When we were developing the legislation, we looked at the substantial compliance or whether the thing that the landlord had done or not done met a certain test. What we found was that well over 96% of all of the work orders that came through the system met the test. The test really did not appear to do anything except to create delay because you would have spent some time looking at all these things, and since almost all of them already met the test, it just did not seem to be adding anything. It was there, but it did not seem to do very much.

The question about delay and so on, the period of time, the average time between a date that an order is reported and a rent penalty issued is 246 days, according to the information that we have. I do not want to point a finger at anybody in the system and say that anybody was doing his job wrong, because I think that they were all trying to do their job as well as they could, but I do think that a system that involves having the municipality decide whether or not there is a lack of compliance and then having the standards board decide whether there is a lack of compliance and then having rent review decide again that there is a lack of compliance just did not seem to be a particularly desirable system.

Ms Poole: I agree. You cut out rent review.

Ms Parrish: The problem has been mostly that almost everybody has said, "If you want this to be a meaningful system, you have to create a connection between the rent penalty and the bad condition, and if you don't, you're just going to be back into the situation of fining people $50 for not having any heat in the building," and that that system has not led to an improvement in the condition of adequacy in rental housing.

1340

Mr Tilson: On the issue which was raised with the Ministry of Energy and which we have raised in the past, the energy conservation conflict of the landlord putting in windows, insulation, whatever, taking advantage of the programs put forward by the Ministry of Energy, with the very probable possibility of a tenant making application for and receiving a reduction in rent because of savings of maintenance, is there any possibility of any further discussion with the Ministry of Energy on that conflict?

Ms Parrish: Of course. There is always an opportunity for further discussion.

Mr Tilson: It appears to be over.

Ms Parrish: Not to be controversial, I did not hear any evidence that there was a conflict. I do not think they have said that. I do not think we have said that. I understand it is your view there is a conflict, but as staff from Energy said this morning, we have had a lot of discussion with them and we think we have come up with a reasonable balance between the various interests.

I understand you do not agree, but we do have specific provisions that deal with energy conservation and we do not require, for example, that energy conservation measures be necessary in the same way as we require other things. We do give them a sort of special place, as we do, for example, access for disabled people, for the same public policy reasons.

Certainly we can have further discussions with them. We have had discussions with them and will continue to have discussions with them, but I think that—

Mr Tilson: I think that if you read Hansard this morning, there was an admission that there was a conflict—"conflict" is my terminology, but there was an issue that was agreed that a tenant could apply for and might receive a reduction in rent as a result of a landlord applying for an increase, making a capital expenditure for energy conservation.

Ms Parrish: It would be fairly unusual circumstances. You would have to have a situation where the actual costs fell, as opposed to, as the staff from Energy were saying, just decreasing the amount of increase.

Mr Tilson: I will not spend any more time on that.

Turning to the issue of illegal units, I am thinking of the issue that has been raised with rent registry. Perhaps I could ask my question to you, sir. As I understand it, a tenant, for different reasons, could request that one unit in a basement apartment of a house, for example, or just a unit in a house should be registered. As I understand it, that is what the new Bill 121 allows.

If that were to take place—and I have asked this question to different people before, particularly tenants' groups and legal people—inadvertently a tenant, in trying to enforce his or her rights, could force a municipality to take the position that that unit is illegal and close it down. Has the ministry any record—obviously it does not have a record, but does it have any anticipation of the number of these types of units around the province?

Mr Glass: I am afraid we have no records of illegal apartments.

Mr Tilson: Of course you do not have any records. As I say, I qualified that, but do you have any anticipation from the numbers around the province as to whether that is any real problem?

Mr Glass: I do not believe that there have any studies done of a policy nature into the number of illegal apartments that we might anticipate, nor is there any necessary connection between a tenant in one of these units asking us to register it in the municipality's bylaws. I do not believe we have carried out any studies that would quantify the number of illegal apartments.

Ms Parrish: Some municipalities have done estimates. I think East York has done an estimate. Scarborough has done

an estimate as part of its municipal planning statements. Those are only estimates.

Mr Glass: But at a provincial level we do not have those data.

Mr Tilson: The issue of rooming houses has—I have asked the minister that question and I am still awaiting an answer. Is there a position yet, or something to assist me?

Ms Parrish: The bill as currently drafted treats rooming houses differentially based on the number of rental units. If it has six or fewer, then it is small, if it has more, it is large and therefore gets the lower guideline. That is what the act says as currently drafted. I understand from what you are saying that you think perhaps that is not appropriate and they should all be treated as small.

Mr Tilson: No, I did not say that. It seems to me that there could be a number of units in a building, generally speaking—there is never any rule, I suppose, but generally speaking, units of rooming houses are smaller; Smaller than, say, apartment units.

Ms Parrish: In size.

Mr Tilson: In size. Therefore, that qualification of large and small would probably create a problem with rooming houses. I guess my question is whether there is any possibility of a recommendation to the government to provide some sort of a subsection to deal with that issue.

Ms Parrish: I do not think we have made a decision on it one way or the other. The act is fairly clear the way it is drafted. We would certainly look at whether there was a valid argument for saying that rooming houses, irrespective of the number of units they have within them, should be either an A or a B guideline. We could certainly look at that.

Mr Tilson: I guess my reason for asking the question is that those are the very types of people we are trying to assist, generally speaking.

Mrs Parrish: Yes, often very vulnerable people.

Mr Tilson: I am going to ask the question again. On the issue of either regulations or adding to the definition section in the act certain words, I have made it clear this morning and I will continue to make it clear that I am having a great deal of difficulty properly understanding some of the sections in the act when I do not know what some of the words mean.

Ms Harrington: I believe I will take that concern, besides back to the ministry people, back to the minister, and see what we can do.

Earlier Ms Poole had mentioned the guideline formula and whether it should be two thirds or one half. I just wanted to set the record straight here that the minister has indicated that she would like to look into how that formula is calculated and I believe is asking people to do that. We will come back to you with information on that.

I had two questions. One was whether or not we could feasibly separate out different charges within the rent, first of all for accommodation, second for taxes, and third for temporary charges. While you are mulling that one over, I will give you the other one, which might be a little easier.

It is very important that we deal realistically with the capital costs that landlords are experiencing, and I believe we have attempted to do that. A couple of weeks ago I got from the ministry two pieces of paper which explained an example of a roof, and for the sake of all of us here, I would like to just have a brief look at that and see if it will help us look at how realistic this bill is with regard to dealing with capital costs. I think it is probably an easy example.

What I wanted, Colleen, is if possibly you would look at it again with us and clarify it if there were questions. I think it was basically a 12-unit building with an annual income of about $100,000 and the landlord wanted to put on a roof.

Ms Parrish: We did give out these handouts before, but we have more of them.

Ms Harrington: We actually did not talk about it in the committee, so I would like to take this time—

Ms Parrish: Yes, we never really talked about it, but it was tabled.

Ms Harrington: The expense of the roof was $6,000, I believe, and what would be the easiest way for that landlord to handle that expense. I just wonder if you could run over it briefly.

Ms Parrish: Dana will take you through this example, which attempts to show people how much the landlord gets from the actual capital allowance and then how much the landlord gets from what is called compounding, which is the guideline increase on top of the actual capital allowance.

1350

Ms Richardson: The particular example is actually found on page 3 and it is called example 1. It gives an example of a small building, one that would be under six units, and the building generates annually a revenue of $6,000. The roof replacement cost was $6,600. When the calculation is done as far as amortizing the cost with interest is concerned, according to the tables under the RRRA, roofs were about 15 years. The actual cost is amortized over a period of time.

Because this is a small building, it is eligible for a two-year carry-forward. The result is that in the first year this landlord is eligible to get an above-guideline increase of 3%. In this example, that is $180. This is in addition to the guideline increase and therefore makes an assumption that 2% is being spent on other kinds of capital as well in this building.

In the second year, that $180 is in fact built into the rent. It is already there in the rent. Because it is in the rent, it also is increased by the guideline, and that is the first step of compounding; $9.72 actually represents a 5.4% increase in that amount that is in the rent. Because this is a small building, it is eligible for a carry-forward. The carry-forward in the second year also allows the landlord to go up to another 3% above guideline. So $195.12 represents 3% above the guideline, but because we have already built a certain factor into the rent, the base itself is higher and therefore 3% of the base is higher. That is why $195.12 is allowed in the second year as opposed to $180.

This is done again in the third year, because it is eligible for two years of carry-forward. By the fourth year the landlord has built into the annual rent the sum of $586.63 for that roof replacement. There is in the rent itself that

amount of money which, for the next years, will be increased each year by the guideline amount. At the end of 15 years, the landlord will have received $11,778.33 to pay for that roof replacement. This represents $8,000-plus for the actual capital replacement, plus the compounding that each year is added on to the amount in the rent. This indicates that on that initial cost of $6,670, the landlord, after 15 years, has recovered $11,778, which takes into account interest rate factors and the compounding in the guideline.

Ms Harrington: Just to generalize from this example, if a small landlord in this case were to go to a lending institution, would he or she have any problem getting a loan for this kind of expenditure, with the $500 a month we are talking about here?

Ms Richardson: Individual circumstances may vary. There may be other circumstances in that building. They may have a high debt for other reasons and the lending institution may be unwilling to lend that amount of money. I think this morning the Canadian Bankers Association indicated that its concern would be whether a landlord would be able to recover sufficient money to repay the loan. If a landlord brought forward all of the calculations that showed how the amortization would work, how the cash flow would work, if it fell within the 3% per year that the landlord would recover in this case, then the landlord could get—

Ms Harrington: With any kind of reasonable mortgage percentage—say 85% of his building was mortgaged—he could still have no problem getting a loan?

Ms Richardson: Probably in that instance, but it would vary from place to place.

The Vice-Chair: Ms Harrington, two minutes each for this round, and you have used your two minutes.

Mr Wiseman: I finally have a question and I cannot ask it.

Ms Poole: I cannot ask the questions I need to ask in two minutes, so I am going to give the ministry a list of questions. I would like them to get back to us in writing since it appears we will not have another opportunity.

First is the one I mentioned earlier, the outstanding matter of whether property taxes could be separated from the rent and how you would see a proposal such as the one by the High Park Tenants' Association working.

Second, I would like some details on how the regulations are going to be handled. We had a very comprehensive system set up with the Rent Review Advisory Committee on the regulations under Bill 51. I am not terribly optimistic, given this government's record of consultation to date, that we can expect that kind. So I would like to know what type of consultation input there will be at each stage of the draft legislation, or are groups going to see it after you have drafted it? I would like to know whether the government intends to table those regulations with our committee so that in the winter session the general government committee will have an opportunity to make sure these regulations mesh with the legislation as passed.

Third, I would like an explanation of why interest rate changes are not included in Bill 121, as they were in Bill 51, and why garbage tippage fees are not included in the building operating cost index and the residential complex cost index. When this was brought up by Mr Tilson during the last session, to have this included for extraordinary operating increases, he was told we could not because the formula was in place and it was something that could be considered when the formula was reworked. That is obviously missing at this stage.

The other thing is an interpretation of subsections 13(4) and 13(5). Can this section be interpreted so that the rent increases would be allowed for a 15-month period instead of 12? I have looked at it both ways. I know your intent is the same as under Bill 51, but I am wondering if because of the 90-day filing period for applications, this could not be interpreted to be 15 months. Again, I would like a written explanation of that.

I am asking whether the terminology in this legislation should be changed, for instance, where they are talking of Small Claims Court, Divisional Court, that type of thing. I am not a lawyer but Mr Tilson is, so he could probably make these comments in a much better way, but it seems to me since we have changed those names and the courts have been amalgamated and merged and all that kind of stuff, we should use the new terminology. Most important, with regard to neglect and inadequate maintenance, I would like a full explanation of the provisions.

Mr Tilson: With regard to the subject of interest rates changing on refinancing, I am waiting to hear a response to perhaps a political question as to why that is not included in the act. If it is, I understand that; we will deal with that in clause-by-clause. Is there some reason other than a political reason as to why that is not included in the act, why that is not taken into consideration in the bill?

Ms Parrish: The bill focuses on maintenance and capital and has removed from it any aspect related to the landlord's investment. That is the philosophy behind Bill 121. Currently of course, as you know, interest rates are very stable and have been for some time and/or are declining. It was felt that in those circumstances it would be inappropriate to bring in a provision that would allow interest rates to go up but did not allow interest rates to come down to give tenants the same benefit.

Once you do that, you do buy into a much more complex system, because you have to build in some ability of the tenants to find out what the interest rate structures are so that they can make an application to bring these things down. Then you get into the whole issue around how you can make sure that happens in a situation where the landlord has not applied for anything.

It does just increase the complexity of the system if you try to be fair to landlords and tenants in terms of that system. You have a more complex system and you have to handle all these additional things. Also, there is the philosophy behind the bill, which is to treat the investment of the landlord and capital maintenance as being separable issues.

Mr Tilson: I ask the same question with respect to the capping that would be placed on large increases for municipal taxes, insurance rates, hydro, those types of things. Are there reasons other than political reasons as to why that capping would exist in situations like that?

Ms Parrish: When you look at the historical experience with extraordinary operating cost increases and necessary capital increases, it would lead you to believe that those caps were, over a certain period of time, adequate for the demands of the system and therefore would protect the tenants while creating sufficient income in the system.

The Vice-Chair: The committee will recess for 15 minutes. We will resume our hearings in room 151 at 2:15 sharp.

The committee recessed at 1400.

The committee resumed at 1418 in room 151.

ROCKFORD HOLDINGS

The Vice-Chair: The first presentation will be made by John Andrade of Rockford Holdings. You have 15 minutes to make your presentation.

Mr Andrade: My name is John Andrade and I have been asked to appear for Rockford Holdings. Rockford Holdings is a landlord in the city of North York. I will deal with some reasonably specific matters which are on the fact sheet I have given you and then I will deal with some general aspects of the law.

Rockford Holdings is an owner, as I have said, of an apartment building at 6010 Bathurst Street in North York. I have been asked by the owners to emphasize that this building has been owned by the same family group for 20 years. There are no flips, if such an animal exists; there are no takeovers, no acquisitions, no sales, no financial loss. It is a long-term owner we are talking about.

From time to time they have done capital expenditures to maintain the physical integrity of the building. I think it is fair to say that despite these year-in and year-out expenditures, they came to the conclusion that it was necessary to do certain capital expenditures; the owners identified a number of items including restoration of the parking garage. The result of their studies, and they had engineers and other experts assist them, was that they had to spend $1 million, and they commenced spending this money in 1990.

I want to emphasize to the panel, especially the members on my left, that this company did not install marble lobbies, they did not install gold-plated doorknobs; they did items which were essential for the physical maintenance and integrity of the building and to provide, I dare say, good service to the tenants.

They determined—and they did this in consultation with me, they hired me to assist them—that they had to spend the said $1 million and that they would generate perhaps $160,000 to $170,000 in rental increases. That is not on account of interest only; I want to stress that is on account of amortizing the expenditures over their useful lives.

Under Bill 51, as it stood before the Bill 4 amendments, when they went to rent review they would incur what is generally considered a 1% penalty. The government of the day and, in fact, the law as it still stands in effect said that the guideline includes 1% for capital expenditures. So you lose 1% when you do capital. The result is that they could perhaps obtain a net increase in excess of the guideline somewhere in the area of $150,000. This would have paid out the expenditures including an allowance of interest, say at 11%.

The calculations I have done, in conjunction with the people at Rockford Holdings, is that assuming everything goes well they will end up over a two-year period with a rental increase of $57,000 over and above the guideline. It bears repeating that under the previous law they were expecting about $160,000 to $170,000. That is the law under which they did the work; that is the law under which they planned the work; that is the law under which they had a reasonable expectation, but their return, if you will, their incremental increase above the guideline, is being cut back to approximately $57,000.

That is completely contrary to what I am sure I heard the former minister, Mr Cooke, say not once but several times. He said he realized the hardship caused by Bill 4, it was rough justice, but that when Bill 121 came about there would be an allowance made. Well, the allowance is $57,000. In other words, not counting amortization, my clients will get a rate of return of less than 6%. I am not sure how many members of this committee would be content with going to the bank, putting money in a savings account and earning interest on about half the money, or less than half.

I have been asked to say a couple of other brief things by Rockford Holdings. They have been asked, if this law goes through, to reapply under the new system. The new system being put forward by this government involves a wholly within-ministry bureaucracy under someone called the director of rent control. This is an ominous departure from anything we have had before in this province. Until now we have had people, people who were Conservative, Liberal and, I dare say, NDP, appointed to the various boards and tribunals and they have been able to go there and make fair and independent decisions. That is not the intent of this government. Maybe it is a plan on the part of the bureaucracy. Whatever it is, I say to you, and I believe that some tenants have voiced the same concern, you must have an independent decision-making body.

Thank you very much. I have no further specific points on Rockford Holdings. I would be glad to entertain any questions.

Ms Poole: I would like to ask you to elaborate on your comment about the necessity for an independent decision-making body. Would you like it set up very similarly to the current Rent Review Hearings Board, where there is an administrative tribunal first, followed by a route of appeal, or do you have any ideas of how you would like to see the system reworked?

Mr Andrade: I think it is important that the system works in a smoother fashion, Ms Poole. What we have right now, as you are aware, is a system within the ministry at first level and then a system under which independent people can put their minds to the issue. I will give you an example.

Years ago the ministry decided it would apply what is considered a very strange interpretation of the definition of capital, despite the fact that virtually every panel of the appeal board said no, that is not right. The ministry, for whatever reason, continued along its merry way.

These things will happen. We need to have an independent tribunal. I do not care whether they are appointed on the basis of party affiliation or preferably on the basis of merit, but you can have meritorious appointments to a tribunal. I have heard said that they are trying to get away from partisan appointments. Well, there is no mutual exclusivity here; you can have both. It is important that the government of the day be not able to dictate to the decision-maker. It is also important, because people make mistakes, that you have appeals on fact before going to the time and expense of the courts.

The Vice-Chair: There is a little bit of time left.

Ms Poole: In that case I will follow up. We have had a number of presenters talk to us about what is going to happen with the government's proposal to have either a choice of an administrative review or a hearing, and there have been some predictions that the number of hearings would dramatically increase. Instead of reducing the amount of time and paperwork involved, the government would be increasing it because people would say, "If I only have one kick at the can, one shot at this, I am going to make sure it is a hearing so I get my fair day." Do you anticipate that might happen?

Mr Andrade: I completely agree. As a consultant, if I may put on that hat in a generic sense, I would be advising all my clients to go through the hearing process. We would line up at the hearing room door with all their experts, because this is it. If you look at this bill, for example, the hearing officer is allowed to take evidence by telephone, and I am not sure how one effectively cross-examines by telephone. An appointee can take evidence and, given the apprehension which I believe is felt on the part of most landlords with respect to this government, I think you would have a further backlog in the system. If you build more hooks into the system people will have more confidence in it.

Mr Tilson: I would like you to give the committee your comments on another rather controversial issue in this bill that has to do with the guidelines, the rent control index; specifically, the decision to allow two thirds for small buildings and 50% for the larger buildings. There has been some evidence given to us that, perhaps, instead of talking about large buildings and small buildings, one should be looking at age. I would like you to briefly comment on the issue—

Mr Andrade: I think there may be a couple of break points, such as post-1975 buildings versus pre-1976. I do not happen to hold to the proposition that age will necessarily make that great a difference and I think you often find that some larger buildings, the smaller ones in the larger range, tend to have a higher cost than the smaller buildings because they have superintendents and they have elevators.

What is really wrong with this whole thing is the notion that it is appropriate to allow 50% of the inflation index plus 2% capital—and let's leave that 2% capital aside because it is the government's opinion that landlords need that 2% for capital. If you take the 50% index—and let me make the completely unrealistic assumption which confounds all the evidence which I have seen, and let's accept the government's belief for one second that landlords can operate at 50%—we all know it is really 60%, but even if it were 50% it would be an utter disaster because at 50% you get back dollar for dollar what you incur in operating costs. That means a landlord who has a nominal cash flow of $100,000 will have the same cash flow in the year 2020.

I do not know, but I rather suspect that the people on my left have a great deal of difficulty with unionized workers being told: "Oh, you make $30,000 a year. That is it for ever." That is what this does under the best scenario. Under the scenario where costs are 50% of revenues, landlords will have in nominal terms no increase in income, and of course their real income will fall every year by inflation. Throw in the hooker that for the undefined "inadequate" maintenance rents can go down, and you are talking decimation.

Mr Wiseman: I would like to begin with a number of questions concerning your brief. It does not have quite the detail I would like and I could use for my own evaluation. How many units does 6010 Bathurst have?

Mr Andrade: About 120 units here and this landlord manages about 250 units in three or four buildings.

Mr Wiseman: Are we talking about all three or four buildings?

Mr Andrade: No, we are talking about just this one case which has been applied for.

Mr Wiseman: Okay. What is the average rent per unit?

Mr Andrade: It is about $550 to $600; about $600.

Mr Wiseman: And is there an existing mortgage on those units already?

Mr Andrade: There may be a mortgage, but it is a long-term ownership, so there certainly is no financial loss.

Mr Wiseman: You made the comment that it has been in long term. Have they remortgaged the building at any time? And what is the indemnity now?

Mr Andrade: I do not know, but I can tell you, because I have reviewed the previous rent review decisions, the rents certainly have not increased one penny on account of any mortgage or financing.

Mr Wiseman: That still does not answer the question. The next question I have is, in your last paragraph on page 1 you say the million-dollar expenditure would generate approximately $160,000 to $170,000 in rent.

Mr Andrade: Yes.

Mr Wiseman: How was that calculated?

Mr Andrade: That is amortizing the expenditures at 11%.

Mr Wiseman: For how many years?

Mr Andrade: For 10 years.

Mr Wiseman: So what you are saying is, they are looking at a total repayment on their loan in the future as opposed to taking into consideration any accumulated capital from the previous years' rents that have been paid in?

Mr Andrade: I am not sure what you mean by accumulated.

Mr Wiseman: You are assuming that all repairs should be paid for in the future as opposed to them having a liability for allowing those repairs to come to such a high toll.

Mr Andrade: I do not know any more than you do, Mr Wiseman, whether or not any so-called surplus they had in the past may have been used up doing other capital in the past. I can tell you that when they undertook these expenditures and when they carried them out, they were acting within the honestly held belief that they could recover these in the future rental stream and that, therefore, they said to themselves, "What cost will I incur and what revenue will I incur to match against that?" And the point is that when they answered that question after looking at Bill 121, the answer is you get a 5% return. That is the answer.

The Vice-Chair: Thank you for coming before the committee today.

1430

ALBERT FACCENDA

The Vice-Chair: The next presenter will be Albert Faccenda. Mr Faccenda, introduce yourself for the purposes of Hansard and then, as you have seen by the way the proceedings operate, you have 15 minutes to make your presentation.

Mr Faccenda: Hello, committee members. My name is Albert Faccenda. I am a landlord in the Hamilton area. Up until recently I owned 13 apartment buildings. I am presently down to six, and I am also a tenant in one of the units that I have sold.

Throughout these committee hearings you have heard hundreds of submissions from both landlords and tenants. I am just saying that east is east and west is west and never the two shall meet is probably a good description of how far apart both groups have been. Tenant groups argue the increased transfers of their incomes to landlords which occur when rents go up higher than normal. Many argue they cannot afford their present rents, and these are the people on welfare, disability, etc. Landlords, on the other hand, consider the difference between regulated rents and rents in the absence of regulations as a transfer of their income to tenants. Landlords further argue that they are forced to provide social housing, which should be paid out of the tax revenues and be the responsibility of the government. The basic argument is social fair rents versus fair market rents.

Social fair rents reflects social values as embodied by public policy, what we are experiencing today. Fair market rents are the rents that are the minimal level which will provide landlords with a fair rate of return, sufficient to retain existing investment and attract new investment, something that certainly is not the case presently.

For most households the socially fair rents, or their limits, are above the current market rents for the rental accommodations they occupy. I am not aware of a justifiable reason or criterion for fairness which warrants benefits being extended to those households in the form of lower-than-fair market rents or subsidized housing at either the expense of landlords or taxpayers generally.

For other households—and this is the problem area—the socially fair rent is lower than the fair market rent for adequate housing. The new proposals introduced in no way affect this at all and do not help the problem whatsoever.

Rent regulation, in its present form of holding all rents below market rents, does not satisfy the fairness criteria. It imposes unjustified financial losses on landlords, provides inadequate relief to lower-income tenants and has a disastrous effect on rental stock. I do not think there is much construction going on now in Toronto or Hamilton or anywhere else.

Furthermore, the amount of relief provided to tenants is not related to need. Therefore, much of the assistance is misdirected. This policy is popular among those who benefit from the misdirected assistance. Policy which is aimed at those in need and denies such aid to the majority who do not require financial assistance should be the course new policy should take.

Social assistance should be the responsibility of taxpayers so that the burden can be distributed equally throughout society on the basis of income, not thrown in the lap of landlords.

I have some facts to consider, and you have probably heard this all before. Average rents have fallen approximately 20% below inflation. Is there anyone today on the committee who can tell me that has not occurred? Taxes and utility costs, in some cases, have tripled over that time. Can anyone deny that? Housing costs, bricks and mortar, and land values have gone up 300% to 400% in Hamilton. I imagine they have done the same in Toronto. Certainly no one can deny that. Apartments are the highest-taxed per value of all forms of real estate and yet municipalities and governments say they are interested in keeping rents low. That is not consistent. A $30,000 apartment pays the same taxes as a $130,000 condo or home, and we are trying to keep rents reasonable.

On the other side of the coin, apartments are the lowest-selling per square foot of all real estate investments. Compared to all, apartment buildings sell for the least amount, yet they are one of the most expensive to build. New construction for the foreseeable future is non-existent from the private sector and, under the proposed changes, never to be seen again.

In Hamilton no new buildings have been built over the past 20 years by the private sector. The result: 15,000 to 20,000 illegal units creating havoc; no parking; high crime; illegal conversions and deplorable living conditions for those who could find no other housing elsewhere. The city does nothing to prevent this because what could it do? Throw all the people out on the street?

Ontario's population in 1951 was 4.6 million; in 1981 it was 8.6 million. If we expect growth to continue at this rate, and growth is important, we will require hundreds of thousands of units to be built over the next decade. That is scary at a time when over the past two decades there has been no new construction.

A system that deters private sector investment in the Ontario rental market is not acceptable. There will be a substantial requirement for additional capital in the foreseeable future because population growth, immigration and changing demographics will increase demand beyond

present levels. Ontario will require over the next 20 years 10,000 to 15,000 units built every year to cover new demand, 2,000 or 3,000 units to cover or cushion vacancy rates to bring them to a reasonable level and up to 20,000 a year to replace the old and existing stock; much of it is at the end of its life expectancy.

The cost of new construction is approximately $120,000 to $140,000 per unit, depending on where you live. Multiply this by the 40,000 units we need yearly, if the demographics continue to grow the way they do, and over a period of 20 years that total works out to $104 billion just to keep pace with the housing that will be needed. Now, that is assuming that all these units are built at today's prices. If you add inflation on to that, the prices are astronomical. I put $1 billion on my calculator and I did not have enough spaces there to accommodate all the numbers.

Funds to provide these new units must be made available if tenants in Ontario are not to be faced with a staggering housing shortage. The private sector will have to provide a large portion of this capital required. Certainly at the deficits we are running now, not mainly the fault of the NDP, we certainly do not have the funds to accommodate all this housing.

Mr Callahan: To a good extent, though.

1440

Mr Faccenda: I will not get involved in that. So, the reality is there is simply not enough money for the housing that is required. It is not a gimmick. It is not a joke. It is simply fact. If there is nowhere for people to live—and the question to ask yourself is, if it was not for the landlords of 30 or 40 years ago who built all the units, where would the people today be living? I cannot come up with an answer for that. I have tried and tried. If it was not for those landlords, I do not think the government would have had enough money to subsidize. Can you imagine the deficit we would be running today if the government had been left responsible for building all those units? The numbers are astronomical. The irony is, investors are running the other way, and the new policies are also headed in the opposite direction.

The NDP policies: The facts are that rents have not kept up with inflation, and the poorer tenants will argue that their pay has not kept up with rents. So that is who we have to try to help out. If we are talking about subsidizing the poor you have my full respect, because they do need the help. When you talk about subsidizing tenants in general, you drive a wedge between tenants and property owners. Property owners are subject to inflationary costs, high interest rates, all the perils of owning real estate. Many of those costs have not been passed on to the tenants, even if interest rates had gone up or there were extraordinary operating costs, etc. The NDP has seen the light in that matter and is reconsidering.

But there are increases that are in the process of being passed now that will lower the annual increases even lower than in the past. That goes to the issue of using two thirds inflation and reducing that to 50% inflation. I am at a loss for words when the rent increases do not keep up with inflation, and the NDP government is trying to figure out a way of keeping rates even lower yet, realizing there is a housing shortage, with no answer to the housing shortage.

The NDP wants to register rents on small units, so that tenants may register rents on two- or three-unit buildings. What this is going to do is cause triplexes to be converted back to single-family homes because the highest and best use of those houses would be as single-family homes and not as income properties, eliminating even more units from the market.

You talk about prosecuting bad landlords but you say nothing about prosecuting tenants who skip out without paying their rent at a cost of hundreds of millions of dollars to landlords each year. Should they not be treated equally? Should landlords and tenants not have some sort of recourse to get their money if they have lost?

It appears that investments in apartment buildings right now are not viable. If increases cover only operating expenses, the take-home amount remains the same. The building will not appreciate, people will not buy, investors will invest elsewhere at a critical time when we need housing the most. Make no mistake; no return, no investment. Since the government does not have the money, and the shortage is imminent, will home owners have to share their homes with others? Will builders of condos be forced to turn their buildings over or use them as rentals? Will the Rental Housing Protection Act be extended to cover single-family homes or condominiums? This smells too much of communism and it is a time when the colour red is not that popular.

Mr Callahan: Well, now, I object to that.

Mr Faccenda: Unfortunately, the direction we are heading is going to leave no alternative. If the policies do not change, the taxpayers will have to pay over the next 20 years $104 billion, and that is a low estimate. To ignore the housing shortage would change the way Ontarians live and the way we have learned to live in Ontario; people living in the streets, etc. Present and future governments are facing this problem, when previous governments did not have to worry when rent controls were first installed.

The landlords' reasons for not building: The governments have broken every promise made to landlords. People built with the expectation of fair market rents. Many would not have built at all if they had been able to foresee rent controls. Units over $750 were exempt and then they were pulled back in under rent controls. Post-1975 buildings were exempt and then they were pulled into rent controls. The most devastating of all was the retroactive legislation that took away increases that were already approved, resulting in bankruptcy for many landlords. This is not rhetoric. Talk to any banker and he will tell you what is happening.

Fear of future rent controls: Many investors fear that rent controls are only one election away. If we talk now of lifting rent controls, as in BC—people say, "Well, in BC there are no rent controls." Nobody is building. It is the fear of rent controls that is causing people not to build, because people are crying for rent controls. Unless there is some constitutional change that guarantees property rights, you may never see the private sector involved in apartment building again.

I believe needy tenants should be assisted in being able to have decent accommodation to ensure a decent lifestyle. Shelter subsidies should be given to these people: the elderly, the disabled and the welfare recipients. I do not believe tenants who can afford to pay market rents should be subsidized at the expense of taxpayers. They should receive the same treatment as home owners and be subject to the same inflationary forces that govern the majority of social—I will skip through that; we are running short anyway.

My recommendations: All tenant households should have access to decent housing suitable and adequate to their needs, whether they can pay rent or not. Those who cannot afford to pay rent should be subsidized. Private investors and landlords should be major suppliers of rental units. Private investors must earn a competitive return on their investment. Similar units should rent out for similar rents. There should be the gradual phasing out of rent controls, with lower rents allowed to increase at a higher rent than high rents, resulting in equalization and no severe increase. There should be assurance in the private sector, to regain the lost trust created over the years, that rent controls will not be reintroduced. Shelter subsidies for the needy cost a lot less than the province building rental accommodations, and we are looking at millions versus billions, cost-wise. Costs of administering rent controls are already one tenth of the subsidy costs.

The results: All tenants would have a decent place to live. The supply of housing would increase with hope of a profit for landlords. Taxpayers would save billions to be spent on other programs. Taxpayers and landlords would not have to subsidize all tenants, just the needy ones. Or does the NDP or anyone else feel it appropriate to try to buy votes at the taxpayers' and landlords' expense, as in the past, by cushioning affluent rents?

Taxpayers have had enough. Any program that would reduce government expenditures could not be anything but popular.

Thank you. If there are any questions, I would be more than happy to answer them.

The Vice-Chair: Thank you, Albert, for your presentation. There are some questions, but there is not any time. I am sorry, but we are out of time.

JIM BRIGHT

The Vice-Chair: The next presentation will be from Jim Bright. Good afternoon. You have 15 minutes. We always appreciate it if you reserve some of that time for questions and answers.

Mr Bright: What I have written should take about 10 minutes.

The Vice-Chair: I could warn you, if you would like.

Mr Bright: Sure. Good afternoon, ladies and gentlemen. My name is Jim Bright and I am a landlord. I appeared before you to make a presentation on Bill 4, to no avail, of course, and I am back because the problems caused by that bill you propose to perpetuate in Bill 121. Needless to say, the problems caused to my family and me are still there.

Let me review. I purchased a 51-unit building in October 1989 at an average cost of $54,900 per unit. Most of the units have three bedrooms, some with second bathrooms, and the building is located in an excellent residential area, overlooking a park. I had shopped for a full year and this building was by far the best deal I could find. In addition, it was close to my home, which would work out well for my hands-on type of management. Yes, there would be a cash-flow loss at the beginning and the building needed repairs. However, the rent, at $563 per month for a three-bedroom apartment, including utilities and parking, was very low and could stand some increase to offset capital cost improvement, proper maintenance, and management but still be a very reasonable rent. The fact is that with revenue at this rent level, no owner, past, present or future, can maintain this building properly. It is as simple as that.

I have been employed for 41 years with one company. My intention was to retire this fall at age 60, and the building was to be a source of investment and occupation over the next 10 years. Looking back, I did weigh all the facts surrounding this purchase very carefully—all but one, that is, and that was a change of government. I never contemplated that an NDP government would legislate such problems for me, especially in a retroactive way.

1450

The next part of this subject is Bill 4, and now Bill 121 turns the rental laws of this province into a trap for innocent investors.

Maybe the NDP, from its ideological point of view, does not agree with my business rationale in buying this building. However, my decision to buy this property also involved consideration as to what the rent review laws of that time allowed. In accordance with that law, I did a rent review and received an order from the Ministry of Housing recognizing my financial loss and permitting gradual rent increases over a period of years to offset the same. The retroactive measure of Bill 4 cancelled this order so that this year I did not receive the 5%, which is about a $16,000 order phase-in allowance.

There is only one conclusion that can be drawn from this, and that is that I have been trapped and betrayed by the NDP government of Ontario. It has no regard for previous laws and the fact that citizens of this province made business decisions and put trust in their government. It is understood that a new government will make new legislation in various sectors of its administration, but not retroactively. The NDP government can find fault with the previous administration's rental legislation, but should it penalize the citizens of the province because of that? It is so unfair; surely it must be illegal also. Do not penalize the innocent people who did not make the laws.

The results and the impact on my family—my savings and equity built up over the past 20 years are wrapped up in this building. I do not want to lose it. Even my home is involved in the financing. To reduce my loss, I have done the following: I have discontinued the job of full superintendent. My previous super is now on unemployment insurance. I replaced the super with a lady who does janitorial work only. My family and I do all maintenance and repair, mow the lawns, etc. We receive all requests for

service and various other communications at home by phone direct from the tenant. We try to patch, repair, make do on jobs that arise, and there are many. I still have a full-time job. All evenings and weekends are taken up with the running of this building. We are slaves to the place, yet might in the end lose it.

The future with Bill 121: We have been hanging on, hoping that Bill 121 would do something to address hardship situations of people like ourselves who invested under the previous government's legislation. It is not so. For instance, Bill 121 will ensure that we are stuck with our financial loss. It locks us into a financial-loss situation which guarantees we cannot borrow money. In October 1992 we have a mortgage which the vendor took back in the amount of $562,000 coming due. He requires the loan to be paid back at that time. I ask you, what bank or trust company will provide the money under these circumstances?

Bill 121 will ensure that I cannot raise money for capital expenses. Again, who will loan us money to spend on a building that is already in the red on cash flow? Even if I could raise the money to qualify for the 3% capital allowance, I have to spend 5% each year because 2% is deemed to come out of my annual guideline allowance. Bill 121 will ensure that our building, purchased two years ago at $2.8 million and diminished in market value to $1.6 million because of Bill 4 legislation, will continue to be worth that amount for resale or takeover by the mortgage company.

The ad that the Association for Furthering Ontario's Rental Development ran in the New York paper was right, only the loss, I think, in building value is higher. This loss, if it should happen, would wipe out everything we own. It is ludicrous because the land, with no building on it, would be worth close to this amount. The total replacement cost of this building would be about $6 million, and it is worth $1.6 million.

If this does not create enough problems for us, consider the following: Bill 121 will ensure that I maintain my building up to their standard or the guideline increase could be denied or rents actually reduced. Bill 121 will ensure that increased costs as a result of higher interest rates come out of our empty pocket. Bill 121 will ensure that if the essential services—heat, hydro, water—over which I have no control go up extraordinarily in a year that I happen to carry out capital expenses, it will reduce the amount allowed for those capital expenses. The 3% is an all-inclusive cap. Bill 121 will ensure that as a rental property owner, if you are not making a profit now, you never will. Nowhere do they make provision in any shape or form for a return on investment. The list goes on.

Why do you not round up all the landlords and shoot them? Because it is like lying there bruised and bleeding and somebody comes along and delivers the finishing blow.

In summary, the only thing of a little positive nature is the 3% allowance over the guideline for capital expenditures, erodible as it is by other factors.

The package might not appear bad to owners of new buildings who are in a positive cash flow position and have little repair and maintenance expenses. Generally these are the higher-priced rental units. However, the bulk of the problem in our housing stock is with older buildings, especially those purchased in recent years where maintenance and interest costs are high and there is no profit. Bill 121 will drive such owners into financial ruin.

I respectfully ask you today to consider and show some concern for landlords like us whom you have placed in dire straits. Is there even a word in your vocabulary called "mercy"? If you cannot understand this in a business sense, think in terms of humanity and on that basis see if there is some way you can help us. Can some provision be made in Bill 121 to help us cope with financial-loss situations on purchases made under the previous government, especially where those rent review orders were processed and rulings made? Even if you attach a provision that in such cases the buildings must be kept for a minimum number of years, say five or more, it would go a long way in helping us out of our dilemma. Believe me, we are in a begging position.

Mr Rae these days is crying about unfair treatment from Ottawa. Such hypocrisy. He can only recognize unfairness when he is on the receiving end. Come on, Bob, look in the mirror.

That is the end of my presentation.

Mr Tilson: I remember you from the Bill 4 hearings and you certainly appear to be much angrier now than you were then. I can understand that.

Mr Bright: I had some hope before.

Mr Tilson: I guess the same comment could be made now as was made then. I would like to hear your response to the government's or the NDP's comment that you made a bad investment. Of course, you suggested that you anticipated that type of argument from them.

Mr Bright: Right.

Mr Tilson: They will go further and say: "Why should the tenants pay for your mistakes? Why should they pay for your bad investment?" That is the standard pat comment by the government members of this committee. Can you comment on that?

Mr Bright: I could. I had made a statement that at the rents that were coming in in this building, there is no way any owner, past, future or present, could maintain it properly. I am an experienced type of landlord in handling a building, in talking to tenants—I get along well with tenants—in handling the economics of running a building. It needed somebody. It is okay to say, "Mr Bright, if you hadn't bought it, it could have gone on for ever." But it would have deteriorated more.

I am a person who will lift up the building, and it can be lifted up from $563. If you think of it, for three bedrooms, some of them with second bath, it is a ludicrous rent because it cannot maintain that building. Buying the building at the time, I guess, was a bit circumstantial, in that I did look for a year. This by far, despite the fact they might say it was a bad investment, was the best one I could find.

I declare myself here. I knew there was a law there that could help me with the finance of uplifting this building which I planned to do. The $563 may end up at $750, but for three bedrooms? Think about that in relation to owning a three-bedroom house, for instance. Tenants cannot be insulated from all the things that go on in the world in

terms of higher costs. I thought it was a good investment from that standpoint, that I could uplift the building. It would be a good investment in the end for me. Maybe I would have a positive cash flow or, in the end, maybe I would get some money return on the building.

Ms Harrington: Thank you very much for coming back to see us again. Certainly all of us, I think, can relate on the level you talked about—humanity—and I will take that into account. I am sure the minister has said that also to me, but our job is to act as a government and look forward in the long term to what is best for this province as well. I want to just deal with that for a moment with you.

First of all, during the 1980s—I do not know whether it was a Liberal love-in or whatever—there were developers in this province who raised the cost of land, especially around Toronto, to a very high level, and I think we all are aware of that. That is not the least of the problems.

1500

Mr Callahan: Where is the investigation by your party?

Ms Harrington: Excuse me, you are using up my time. May I have some extra time?

The Vice-Chair: Continue.

Mr Mammoliti: You are putting in great time, you know that. You are rude and arrogant.

Ms Harrington: George, I need my time, please.

Mr Callahan: Absolutely outrageous.

Ms Harrington: The cost of land is certainly part of the problem that we are dealing with, the cost of buying these buildings plus the cost of what the previous presenter was talking about, the big picture of housing, of trying to build more units, which is not part of rent control but is certainly part of our mandate as the Ministry of Housing.

There are some new realities in this province and that is, in the past, under the Liberal legislation, the business of being a landlord or running a property was a guaranteed return. Whatever the costs were, you were guaranteed to pass those through to the tenants, and that is no longer the case.

Mr Tilson: Guaranteed to lose.

Ms Harrington: I would like to ask you this question. Who do you feel is responsible for capital repairs or capital investment in buildings? I would say that certainly the tenants have a part in this and government has to play its part. We have certain programs like the low-rise rehab program, and also the landlord has a responsibility to the building he owns. So I think there is a three-party organization here. Would you agree with that?

The Vice-Chair: I think Mr Bright would love to answer but Mr Callahan is going to ask a question.

Mr Callahan: I am not going to ask a question; I am going to make the same kind of statement as the government made.

You have to recognize that this government feels you should be just absorbing these losses; they are part of your investment. It is too bad you invested.

I think the thing they have not realized is the fact that it is kind of like the job situation. They will tax employers to the hilt and want the employer to pay all these benefits and so on, not recognizing that eventually those jobs will disappear. They seem to think these jobs and they seem think housing just springs out of the ground, that it grows. You throw a couple of seeds on the ground and up it comes.

I think the sooner they recognize that is not the case, and that in fact what they are doing is counterproductive to increasing the strength and longevity of this province, the better off we will be. I think the people took an experiment the last election, and when Ms Harrington made her comment that there are new realities, I thought she was going to say the NDP have come to government. Well, that is a new reality. It is an amazing reality, which I think people are now starting to reflect on and realizing that we are about to destroy this province.

Mr Mammoliti: So what is your question?

Mr Callahan: We are pretty close to becoming part of Buffalo or—

Ms Harrington: You do not even make that determination.

Mr Callahan: You notice the way they drift in and out of the committee hearing. They do not even understand what is going on in this committee, many of them. When they come back in and make useless comments, then I would suggest you just ignore them.

Mr Mammoliti: So what is your question?

Mr Bright: It could be that their mind is made up already, like in Bill 4.

Mr Callahan: That is right.

Mr Bright: Their mind is made up, so it does not matter about what they hear.

Mr Callahan: So what goes out of the committee may necessarily just be passed by their large majority.

Interjections.

Mr Perruzza: On a point of order, Mr Chairman: It is my understanding that there is a procedure that strictly should be followed at this committee, a procedure that has been agreed to by all three parties. It is my understanding that dialogue between the deputants and the speakers who have the floor is something that is not permitted by just an ongoing free-flowing dialogue. It is my understanding that questions are to be put to the deputants and the deputants are—

Interjections.

The Vice-Chair: Mr Perruzza is on his point of order. Mr Perruzza has an opportunity and I have not heard the last couple of sentences, so Mr Perruzza, if you would continue.

Mr Perruzza: My objection, to sum up in a nutshell, is that a free-flow dialogue or discourse between the members who have the floor, the deputants, the members of the third party is something that is unacceptable and not permissible. It is my understanding that questions are to be put from the members who have the floor to the deputants and the deputants are to respond, not simply to interject when it is timely and make outlandish remarks.

Ms Poole: On the same point of order, Mr Chairman, I find it incredibly arrogant of a substitute member of the committee to come in and tell our committee what is permissible and what is not. We have listened many times at

great length to the parliamentary assistant making statements instead of questions and we do not say that she is out of order for doing so. She is using her time in that way. So I would think a substitute member of the committee should take the lead from how other committee members behave and not try to intrude on the process.

The Vice-Chair: I listened very carefully and I have not heard a point of order from anyone. The committee has agreed that each party would divide the questioning time equally among them, and I have done as good a job as I can do to make sure each party is treated fairly in terms of how much time it has. I have no way, and should not have any way, of instructing the parties how they are to use their time. That is up to the parties themselves.

Mr Perruzza: Interjections are acceptable, Mr Chairman?

The Vice-Chair: Under all conditions at all times interjections are out of order in this committee.

Mr Perruzza: Thank you.

The Vice-Chair: I have noted, as many people may have noted, that the interjections come almost equally from both sides.

Mr Bright, I think you have about 20 seconds to answer the question that I cannot remember.

Mr Bright: I would like to address a remark to Ms Harrington, because I would like to ask her what she thinks of the situation where I invested—whether you agree with it or not, what I did was legal. I did not make the trap. You can say the Liberals made the trap. I was the innocent victim and you sprang the trap, if you want to put it that way. That is simply the way it is. Do you not think, as a humanitarian type of party, which you portray yourself to be—you are supposed to be the people who listen, who understand, who are in tune—you have done a dreadful thing to me as an investor? How do you address that? How do you undo that?

The Vice-Chair: Thank you, Mr Bright. We appreciate your appearance before the committee.

Mr Bright: Well, think about it. You are ruining my life.

The Vice-Chair: Thank you, Mr Bright.

Mr Ruprecht: I think the last comment, Mr Chairman, was a good one: ruining one's life.

TENANT ADVOCACY GROUP

The Vice-Chair: The next presentation will be made by the Tenant Advocacy Group. You have 15 minutes.

Ms Mahoney: Thank you very much. I am here today on behalf of the Tenant Advocacy Group, which is a group of 14 Metro-area legal aid clinics. Our membership is comprised of tenant case workers. We also have associate members: the Federation of Metro Tenants' Associations, the Committee for Equal Access in Accommodation and some members of the private bar.

My name Is Elinor Mahoney and I am a community legal worker at Parkdale Community Legal Services. I have been monitoring these hearings on behalf of the Tenant Advocacy Group and have travelled alongside the committee as it has gone through Ontario, and will continue to do so.

I would like to start off by giving you a general impression of what I have seen, both for your committee members' information and also for the information of those Ontario viewers who may be tuned in today. I would like to say that I am somewhat shocked at the callous attitude I have seen shown by several landlords at the non-televised hearings. Here in Toronto we have had some very sincere landlords come forward and address the committee, talking about their fears of financial insecurity for themselves, and I certainly do not doubt their sincerity or their situation. But I would like to comment that when we were in Hamilton and in London and in Windsor, what we saw there I found truly disgusting.

1510

First of all, hundreds of tenants are evicted from their homes probably on a daily if not a weekly basis because they cannot afford high rents through the retroactive rent increases that have been allowed under the previous legislation. The orders are still being churned out by the rent review services. The reaction to the plight of tenants, to the affordability problem, on the part of landlords is very different than the reaction landlords have presented to their own plight in front of this committee.

In Hamilton one particular landlord, I believe it was Mr Arun Pathak, complained about Bill 121's restrictions on rent increases. When asked by a committee member if he had people on fixed income living in his buildings he said yes, and when asked what effect the rent increases he had received above the guideline might have on those individuals, his response to the committee was, "Well, I guess those people will just have to cut back a bit on their holidays." I find this is a fairly callous attitude to take and totally at odds with the attitudes that landlords have presented when the television cameras have been turned on about their own situations.

In London another landlord, Ray McNally, said that if Bill 121 was passed intact tenants would damage their refrigerator crisper drawers and use the resultant disrepair as a reason to oppose a rent increase. Again and again throughout the hearings we have heard people accuse their tenants of potential vandalizing of their own homes as a way of somehow creating a loophole out of Bill 121. I find this not only disturbing but somewhat offensive, to think that people would destroy their own homes to try to save a little bit on the rent increase. I think it portrays more the attitude of the individuals involved than the potential attitude of tenants.

In Windsor landlord after landlord said that Bill 121 was going to produce a police state. They likened themselves to victims of the Gestapo, which I found to be particularly offensive, given what happened in Nazi Germany. I really do not think that a rent control bill in Ontario should somehow cheapen the shock effect of Nazi Germany. It is quite offensive for landlords to compare themselves to victims of the Holocaust. I might also add that while landlord after landlord said this, there was a little juvenile display of bad manners as landlords in the audience cheered and jeered on without being chastised by the Chair in question.

I will say this: some landlords have made very thoughtful presentations to this committee, but my general impression was that landlords want carte blanche in their business decisions and that they do not feel that any government, duly elected or otherwise, should be able to exercise its electoral mandate and bring in the will of the people if it affects them at all. This attitude was perhaps best exemplified by Derek Lobo, a landlord consultant, whose presentation amounted to a sour grapes attack on the Premier and Ms Harrington.

Many landlords and their lobby groups accuse the government of breaking a sacred contract with them by changing the rules of the game. Why they think an unfair and unworkable rent review law, which the government campaigned against in the election campaign, would last for ever is beyond me. It was clear that Bill 51, the previous legislation, was bad and that whatever government came in was going to have to change it, and this is something that the landlords, if they believe in a democracy, are just going to have to accept and start to work and co-operate to make the change as efficient and as painless as possible.

I would like to go on and give a couple of points about Bill 121 in general and then give some specific comments from my advocacy group's position. Bill 121, in our view, is a major mistake. It compounds the mistakes made by Bill 51, and I think there are some things that landlords and tenants can agree on. I heard Mr Andrade talking about how landlords feel about hearings and about administrative reviews and I was sitting back there saying, "Right on, right on, that's how tenants feel about administrative review as well." We are so fed up with having a rent review system that nobody can understand, full of bureaucratic loopholes, full of regulations that are not brought forward for examination prior to passage of the act, that we cannot really trust that this rent review system is going to do what we believe the government wants it to do and intends it to do.

We think that Bill 121 is essentially flawed in two ways. First, it tries to accomplish too much. It tries to address the situation of landlords like Mr Bright, who made a very good presentation earlier, as well as trying to protect the affordability in rents. You cannot accomplish two contradictory objectives in one piece of legislation.

The point we made when we addressed the Liberals on Bill 51 is, "Don't be schizophrenic." Rent review has always been, and should always be, tenant protection. If there are landlords who through no fault of their own are going to be bankrupt by this or hurt by this, that should be redressed as well. That should be considered by your government—but not in tenant protection legislation. That should be dealt with separately. Let's not cut the baby in half like Solomon was threatening to do. Let's keep the baby whole and let's make sure that landlords, who are the few who are really hurt by this, have some other means of redress to keep their properties.

The second reason the bill is unnecessarily flawed is that it is too complicated and very badly written. If I had to sum up what Bill 121 is in a nutshell, I would say it is Bill 51 warmed over. It is just not acceptable to tenants. I can tell you that, as a tenant advocate with 10 years of experience in rent review, I look at this bill and shudder more every time I see it.

We have been asked by the government—which I do believe intends to make some amendments and is listening to the tenant advocates—to prepare a shopping list of changes we would like. That list is so long, I cannot in 15 minutes even begin to go through it. What I do say to you is that we urge the government to withdraw this bill. It is that bad. I am telling you that this bill will not accomplish what I truly believe your government intends to accomplish. It should be withdrawn. A new bill should be brought forward, with some of the same principles and some of the soundness that could be put into a new approach to rent control. Bill 4 is still in effect to maintain the status quo.

Now, I am going to move on very briefly and say that if you cannot do that, here are some of the changes we would like to make. I promise this government that I will be bringing forward with my organization a detailed shopping list. If we cannot have what we think is best for Ontario, we will do whatever damage control we can to rectify this terribly flawed bill. We will work day and night to do it. But I am urging you to reconsider whether we should be getting rid of the bill and starting from first foundations. Here are some of the points we would like these first foundations to have.

First, we want a hearing for all applications, with no option of administrative review. Administrative review does not work. Landlords do not like it when they do not get decisions their way and tenants find that they cannot really participate in it. The administrative review decisions we have gotten have been God-awful. No reasons have been given. There has been no explanation of calculations in the order. There is no judicial fairness in this. Tenants who do not speak English, or do not have a word processor, do not really have access to respond to a landlord's points in that.

The only exception we would see, perhaps to save the government money, is if tenants have a rebate application and both the landlord and the tenant are willing to have administrative review for a simple application on a tenant rebate of rent. But for all landlord applications and for all other types of applications, it should be a hearing. We want to this hearing to be good. We want it to be better than some of the hearings before.

We think there should be either a transcript or tapes that are kept on record, so that when there is evidence of bias, or when remarks are made that are taken at face value but not backed up by documents, that there is some record of what happens at a hearing. We also think that the administrative review officers the government has now are not competent in their current training to be hearings officers. So, either you have to look further—as Mr Andrade has suggested, a different approach—or else you have to train these people rigorously so they can actually be fair in making their tribunal decisions. There should be reasons in the orders given.

We also want one guideline for all buildings, and we suggest that 50% of building operating cost index is the correct approach to take. You have heard landlords saying across the province that if you have two different guide-

lines, you may appear to be fairer to these landlords than in actuality. They are afraid the tenants might leave the smaller buildings and move to larger buildings in order to avoid to having a higher annual increase. We do not think tenants usually have the option of moving. But we think if the landlords do not like it, and we do not like it, then you should not put it in.

1520

We are happy with the A. E. LePage study. The landlord's study, remember, was that they canvassed their own membership. I do not think that is very scientific. In lieu of another study, I think you should go to the one that you commissioned.

Our third point is that section 16 should be removed from the act. The government promised to stop capital expenditure rent applications with Bill 4. Now you are suggesting that we raise them up from the dead. This is what we call the Lazarus principle. The tenants thought they were dead and buried and now they are supposed to pay in 1992 for the capital work done in 1990 and 1991. We think that is breaking the promise that you made with Bill 4. We also think it is going to create a terrible backlog that will again create the very unfair, unjust situation that Bill 51 precipitated.

I will also say that with the guideline for 1992 being established now at 6%, that means tenants who have just moved into a building where repairs were done two years ago and do not know anything about that, will now face an automatic 9% rent increase for 1992. Plus, if a lot of work was done, they may face an additional 9% for one or two years more. That means that over two or three years, tenants may face increases of 18% to 24% because of this retroactive provision. So we say, take it out.

We also think the government should not fall into the convenient amnesia that landlords have fallen into. Landlords say, "Look, the capital does not cover the costs of the work done." And we remind the government, again and again, that for five, six or seven years, these landlords who just did the work have been collecting above inflationary cost. They get an extra 2% in the guideline since 1985 onwards to cover minor capital work. Unless they did capital work in each of those years, they were getting money for nothing. Now they are saying that in future they should be able to recoup in future rent increases for the one year they did do capital work. And we say, "What happened to the money you got from 1985 to 1990?" If you do not take out section 16, at least make those landlords show what happened to the money.

That brings me probably to my final point because I know I do not have much time left. There is an inequity in the treatment of landlords and tenants where a landlord who carries on with a previous landlord's rent review application can collect the retroactive rent once the order comes out for that. But tenants who had been overcharged by a previous landlord cannot recover from the current landlord the rent they were overcharged. We feel that if the benefits of the land run with the land, so should the obligations. They do not in this statute, and they do not in the Landlord and Tenant Act.

So we are asking you to reconsider your approach, perhaps in your definition of landlord, so that a tenant no longer should have to try and find out where the previous landlord is to recover money paid, but should be able to recover it from the current landlord, just as the current landlord can get the rent increases that otherwise would have gone to the previous landlord. Does that conclude my time, or do I still have some more?

The Vice-Chair: You are one minute over. Thank you very much for your presentation. The committee appreciates that. There are were some questions, but unfortunately, there is no time.

Mr Henderson: Will there be a written record of the presenter's comments?

The Vice-Chair: It will appear in Hansard.

Ms Poole: Since there is a canceliation for the next presenter, could we at least have unanimous consent for each caucus to have one minute for questions?

The Vice-Chair: With unanimous consent, we can do anything.

Agreed to.

Ms Poole: Elinor, I really agree with a lot of what you have said today, but I suspect the government is not going to be willing to withdraw this legislation, so it may be a matter of damage control. I would like to ask you about an area you did not have time to get into, which is the Residential Rental Standards Board and the rent penalty provisions that are in there right now. Do you think it would be better to have the standards boards overhauled and to have the maintenance issue dealt with separately than in rent review? How do you see that in the best scenario?

Ms Mahoney: I am glad you asked that question, Ms Poole. The Tenant Advocacy Group's position when we were asked to respond to the government's green paper, the consultation paper, was that the standards board should be strengthened and it should have the power to assign the penalties.

The reason that was our position—and still is, incidentally—is because I for example know of several buildings in south Parkdale where the standards board has issued a non-compliance report and months and months and months have gone by and rent review has done nothing, because they are too busy dealing with landlords' applications. We feel it is not efficient to have rent review dealing with all of these backlogged applications for rent increases and rebates, as well as trying to monitor the provincial standard. So that is the approach we took back in April, I guess it was, and that is our current position.

Mr Tilson: I understand your organization has received funding with respect to your advocacy. Could you tell us how much that is?

Ms Mahoney: I do not know how much it is.

Mr Tilson: But you have received funding, your organization, to be involved in these proceedings.

Ms Mahoney: Yes, we have.

Mr Tilson: Can you inform us as to what that is? Can you find out and let us know later what it is?

Ms Mahoney: It covers my travel expenses, essentially.

Mr Tilson: So you are being paid by the government to go around the province to comment on this legislation?

Ms Mahoney: No, I am not. I am being the legal aid funding source, which is—

Mr Tilson: Legal aid is paying you?

Ms Mahoney: Yes, is funding me to be able to go around and monitor the hearings for the Tenant Advocacy Group, which is comprised of legal aid associations. The purpose of this monitoring is to inform tenant advocates who work in legal aid clinics of all the changes, the proposed amendments to Bill 121 and so forth, that are going on. I am here now in my regular capacity. I have not travelled to come here; I live four blocks away.

Mr Tilson: So the government pays—

The Vice-Chair: Thank you, Mr Tilson.

Mr Mammoliti: I wanted to address one part of your presentation. Early in your presentation you were talking about how disgusted you were with some of the landlords who have presented in other cities. You did not allude to Toronto. However, I think you were here the other day when AFFORD came up and did its thing. Along with calling us all kinds of names, they have recently taken out an ad that, in our opinion, is trying to drive business away from Ontario. My question is—

Ms Mahoney: You want me to comment on that?

Mr Mammoliti: My question is, do you think that they are deliberately planning an attack on this government, and do you think it is right for them to do this?

Ms Mahoney: I think they called you thieves and cheats and a few other names that I heard. I do not see that that really gives them a lot of credibility, but it is certainly their right to do that and certainly their right to take out ads to say whatever they want.

Our approach, as an advocacy group, is to tell you straight out what we want, and to co-operate in whatever way we can to help you develop a good rent control system for Ontario. So we are not going to call you names. We may disagree with Bill 121 and we may want quite a few changes to it and some new legislation, but we are willing to work with you for that. If they are not, well, they have the freedom to make that choice.

The Vice-Chair: Thank you, Ms Mahoney.

1530

KEWIN AND ASSOCIATES

The Vice-Chair: The next presentation will be from Kewin and Associates, Steve Kewin. Good afternoon, sir. You have 15 minutes.

Mr Kewin: My name is Steve Kewin. This is my report to the standing committee on general government as it prepares to make law of Bill 121, the bill that will kill for ever the initiative of the private sector to be involved in the development and perhaps even the passive ownership of existing residential rental stock.

For the record, this is my third appearance before various MPPs to state my total dissatisfaction and disgust at what the NDP proposes as a new law that will govern residential rents and related matters in this province.

I am here before you today as an apartment building owner, investor, real estate investment broker, and a very disturbed citizen of what not very long ago was a province of very optimistic, entrepreneurial and loyal people. This optimism and loyalty is fast fading among all Ontarians who believe in the principles of free and fair enterprise, who believe the just rewards and compensation will be earned by those who risk and try a little harder to create wealth for themselves and in turn for those who need a share of the same.

The NDP has shown itself to be untrustworthy and incompetent with the way it has handled this legislation. They have promised to consult with those affected by this new law that will in time make Ontario's big cities, Toronto and the like, the New York of the United States, with its well-earned reputation as having the most unworkable and draconian rent control legislation in the free world.

I do not suggest that the government did not consult; it did, but not meaningfully. It organized hearings like this one and pretended to listen to the landlords' concerns and constructive criticism, but all it heard was the tenants' side of the argument. Yet what else can one expect when the NDP pollsters are only too aware that they won the last election with their sellout to special-interest groups like unions, teachers' federations and tenant groups?

I used to think this government was incredibly naïve and ignorant of all but the most mundane issues. I am not so sure about that any more. In fact, the government seems to be proceeding with its ill-timed and unwanted insurance legislation in much the same fashion it did with the rent control issue. It pretends to consult, to encourage an open and honest dialogue with those who have a stake in the results in law, as if it really has not made up its mind on what direction it will take. Yet only last weekend a Toronto newspaper printed that it has information that the government is reviewing office space proposals for the hordes of new bureaucrats who will add to the underemployed government workforce—new staff required to administer a government-run auto insurance scheme.

I think this government makes its decisions on extremely complex and difficult questions in advance of the necessary research that any logical, thinking person would require. You did not consult with us fairly. You had made your decision on rent control law based on NDP dogma that surely predates many of us in this room today.

All of this considered, I was very close to cancelling my appearance before the committee today, because frankly I just do not think it is going to do one bit of good. However, I feel I owe it to my clients and colleagues to at least show up. If nothing else, I can vent my frustrations.

Bill 121 falls down in so many ways it is hard to know where to begin. Let's start with the issue of retroactivity. So much has been said on this, and you have listened so little. You have destroyed the investment portfolios of hundreds of hardworking Ontarians, many of them very small landlords who invested their life savings in this industry.

You heard some of these people tell their stories and actually break down as they described the financial hardship you caused by making void retroactively the phase-in provisions on orders that were issued as early as 1987, three

full years before you were elected. You heard similar stories from owners, big and small, who have been caught by the pulled-from-the-hat October 1 date that balanced the fate of millions of dollars of well-spent capital improvement moneys.

Thanks to your bill, many landlords will simply be wiped out, as they are now able to get only a minuscule 3% rent increase on what in many cases was work that was earlier entitled to increases of 10% to 15%. I know you have talked about eliminating all those 115% increases—propaganda and misinformation that was issued to the media, designed to earn sympathy from those who would choose not to be well informed before making their decisions. You stole property from the owners with this retroactivity, and this theft is the responsibility and burden of the NDP as people, not MPPs hiding behind their group identity.

The 3% cap on rent increases due to capital work will cost the taxpayers of this province millions over the coming years. It will cause landlords to hand over Ontario's tougher buildings, those with serious structural problems due to concrete deterioration in areas such as parking decks, many of which are presently unsafe. If the owner cannot finance the improvements, ultimately the province will have to buy or perhaps confiscate the buildings to ensure that matters of safety are remedied as they should be.

Who is going to pay for this? Many of these properties are huge drains on owners' cash flow as they are. Many hope their investment might reap a capital gain some day if it is cared for, but many will lose their buildings to the government, the people. If the people of the province only knew how their tax dollars are going to have to bail out this government for its suicidal plunge into the apartment building ownership field.

As an association of landlords in fighting this mess, I think that is where we fail to make a serious impact: informing taxpayers, particularly home owners, of the enormous cost of the legislation. The election is some four years away, and my hope is that before then we will be able to inform them better than we have to date.

You changed the annual operating increase guideline regulation so that so-called large buildings, those of six units and more, will be given increases based upon one half of the inflationary costs of building operations. Very simply, what this confirms so emphatically but what you have been somewhat reluctant to state in public since election is that the private sector is not entitled to earn a profit in the rental housing business. Bob Rae said it in print before he became Premier and Dave Cooke said it in private meetings with landlords in the past few months, but neither, of course, has had the guts to be so honest as to reiterate it in public.

The one-half-inflation calculation will ensure that net operating incomes, the money available to the property to service debt and that ultimately determines property value, will remain flat over the course of the building's life. This assumes that the owner will spend the balance of the increase, 2%, on annual capital repairs.

If net incomes remain relatively flat, how does the owner handle the possibility of any increased financing costs when mortgages mature? The answer is that he does not. Yes, in keeping with your total lack of understanding of economics—or, conversely, your total disregard for the financial welfare of landlords, and in the long run all taxpayers—you have eliminated completely the ability of the landlord to increase rents to offset increased financing costs.

I hope the home owners of this province awaken to the fact that you will protect tenants of all stripes—wealthy, middle-class and poor—from the ravages of increasing financing costs. Do you propose to be as generous to home owners as the mortgage interest rates on their homes today increase? Will you subsidize a home owner's mortgage payments like you do the tenant's rent, all with taxpayer dollars? Or will you go after the big, bad lender and drive more business out of this province?

Aside from the economic disaster promised by the bill, what frightens me even more is the new power given to your rent police. You intend to give them the power to search a landlord's own home—

Ms Harrington: Less power than before.

Mr Kewin: More power than before, ma'am; read the bill—to seize records and photograph evidence.

Interjection.

Mr Kewin: Read it again. What kind of bureaucratic mess are you proposing to create? What has happened to your belief in civil liberties, or are only the tenants of the province entitled to such considerations? You people have no respect for those who hoped to earn a better living than the welfare state will provide. You have no belief or understanding that it is business that creates jobs. As you continue to treat landlords and business with disdain, you undermine the right of every Ontarian to a better life, to an improved standard of living and an opportunity to create their own wealth and their own dreams and—

1540

Ms Harrington: On a point of order, Mr Chair: The conduct of this committee is in order to listen to you, as you pointed out in your very first sentence, and bring those—

The Vice-Chair: What is your point of order?

Ms Harrington: And to make amendments to this bill and improve this bill for the betterment of the people of Ontario.

Mr Turnbull: What is the point of order?

Mr Abel: Are you the Chair?

Mr Duignan: But not to change the intent.

The Vice-Chair: Ms Harrington has the floor, at least briefly.

Ms Harrington: Thank you, Mr Chair. I would just like to have you, Mr Chair, explain to the witness that it is very difficult for members of this committee, including the government, to try to do that job if certain expressions go beyond a certain point. My job is to listen to what you are saying and try to take that back.

Mr Tilson: Well, listen to him.

Ms Harrington: I am doing so. But I would like to caution the witness, or have the Chair do so, that it is very difficult to do so when he goes past a certain point.

Mr Tilson: This is BS. This is a load of bunk. You tried that in Hamilton. These people have every right in the world—

Mr Turnbull: This has already been ruled on.

The Vice-Chair: Order.

Mr Turnbull: Mr Chair, it has already been ruled on. This kind of interjection is—

The Vice-Chair: Mr Turnbull, on the same point of order?

Mr Turnbull: Yes. This has been ruled upon. They have the right to free speech.

Interjection: The Lord has spoken.

Mr Turnbull: Yes. To silence the people; we know that is your government's agenda.

Ms Harrington: He wants me to listen and I would like to listen to him.

The Vice-Chair: Thank you. I listened very carefully. I do not see a point of order. I would tell the witness, as I would caution every witness, that during these hearings you have no immunity, although the members of the committee do, and therefore everything you say is subject to the laws of the land. But that is the only caution the Chair can make.

Mr Kewin: Are you suggesting that perhaps I might say something that the NDP will hold against me later? Is that it?

The Vice-Chair: The Chair is not suggesting anything to the witness; he is just stating a fact. You may continue.

Mr Kewin: Thank you, Mr Chair.

As you continue to treat landlords, and businesses in general, with disdain, you undermine the right of every Ontarian to a better life, to an improved standard of living and an opportunity to create their own wealth and build their own dreams. Business in general has lost all trust in your government, as it has come to understand some of our problems and empathize with the plight of landlords. I personally have always been a responsible owner of rental property, as have most landlords in this province.

My relationships with the tenants on my property have always been good, because my property is for the most part in smaller-town Ontario, where tenants are generally respectful of the property of others and less confrontational. I may be fortunate enough not to be attacked by mean-spirited tenants trying to incite your rent officers to eliminate rent increases or allow rent rollbacks, as the bill provides. But I pity those who own or manage property in Toronto and other larger communities. They are sitting ducks for the worst kind of management problems that this bill will surely invoke. It is very unfortunate for the majority of well-meaning tenants and very unfortunate for this province. Thank you.

Mr Tilson: Mr Rae, of course, has indicated that as far as he is concerned, the government wishes to buy out private enterprise. In fact, even the green paper states that after 1991 virtually all anticipated new rental housing will be social housing, non-profit and co-op. My question is, realizing that this is the real intent of the government, to put people like you out of business, what effect do you anticipate that will have on the taxpayers of this province?

Mr Kewin: I think all it can do is increase the deficit. Right now buildings that do not operate profitably are funded by the pockets of the landlord. He loses money and he takes it from this profitable centre to fund this unprofitable centre, if it is an unprofitable operation, this property.

I think it is exactly those kinds of properties, those that are in deficit, those that are tougher buildings, physically run-down and not the fault of the present landlord at all—buildings do deteriorate in time, and 50-year-old buildings need a lot of work, a lot of money. It is for those kinds of buildings that without proper financial encouragement through an allowance to increase rent based on capital work required, landlords will simply say: "I can't afford to do this. My lender won't give me a loan. It's not a wise investment to throw another half a million dollars into this parking deck, so I'm afraid I'm not going to do it."

What I see happening, based on some of these proposals, is they will tighten up further work orders. They will give very little time to have work done. Regardless of the amount of time, landlords will not be able to do it; they will not be able to fund it. Eventually, what will happen? I do not know. I can only see the government probably expropriating buildings like it expropriates a municipal corner and funding it with taxpayer dollars. The home owners will pay for it all. We all will.

Mr Perruzza: Mr Chairman, I was not going to address this point, but I feel I am going to have to, simply for the record. Yesterday I sat in on this committee and a similar situation arose where a deputant had exceeded his time allocation. You asked for unanimous consent, because another member had cancelled and we had some extra time available to us, to ask questions of that particular individual. Unanimous consent at that time was not given. It was the Conservative duo who said no, they would not agree to unanimous consent yesterday to question a deputant.

We had a similar situation happen just before this gentleman came up to the podium, and unanimous consent was given so that our Conservative duo could take their nasty bad-cat approach to the housing advocate, and of course they proceeded to do that. It is interesting to note that the rules are not the same for everybody as we deal with individual delegates who appear before this committee to make representation.

I just felt that had to get into the record before I proceeded to address some of this gentleman's comments with respect to NDP dogma and some of the other allegations that were levelled at this committee.

Mr Kewin: I would love to answer questions, sir.

Mr Turnbull: He has taken your time up with utter nonsense.

The Vice-Chair: As a matter of fact, there is no more time.

Mr Perruzza: Mr Chairman, I am sure that this gentleman will appear before us again and I will have ample opportunity to ask the list of questions that I developed for him today. I look forward to that.

The Vice-Chair: Thank you, Mr Kewin, for appearing today. We appreciate your presence.

Mr Kewin: Thank you, ladies and gentlemen, for the opportunity.

SOCIETY OF RENT REVIEW CONSULTANTS OF SOUTHERN ONTARIO

The Vice-Chair: The next presentation will be from Heather Waese of the Society of Rent Review Consultants of Southern Ontario. I have a sense that you know how this proceeding works. There is 15 minutes for your presentation. We always appreciate some time for questions and answers.

Ms Waese: I am here today to speak on behalf of the Society of Rent Review Consultants of Southern Ontario. This society represents owners and managers of rental property of more than perhaps 150,000 residential rental units. Today I wanted to highlight a few of the areas of the proposed legislation where we request reconsideration by this committee on behalf of the landlords. The first area I would like to touch on is with respect to capital expenditures incurred by landlords during the moratorium period. The Minister of Housing of the day, Mr David Cooke, had stated that with the passage of Bill 4 it was not the government's intention to penalize retroactively landlords who had incurred capital expenditures in good faith prior to the passage of Bill 4 during that moratorium period.

The proposed Bill 121 outlined the time frame for recognizing those costs incurred, and that is mainly from January 1, 1990, to June 6, 1991. With that time frame in fact some landlords are penalized. I am referring specifically to those landlords who undertook capital projects in the latter portion of 1989, completed the program early in 1990, and applied in June of 1990 for a first effective date of October 1, hence the moratorium period.

Those costs that were incurred in the latter half of 1989 would not be recognized by way of this legislation as it is currently drafted. The cap that is imposed in this legislation would still protect the tenants, but at least in this circumstance those landlords who had incurred costs in good faith would have the opportunity to be recognized up to the allowance of the cap.

1550

Our recommendation with respect to an amendment of that particular issue would be that any costs that would have been recognized in an application for October 1, 1990, or later would be eligible under this Bill 121.

The second area I would like to touch on briefly is with respect to conditional applications. Although Bill 121 recognizes, on a very specific basis, the circumstances of those who had obtained conditional orders, the 15% cap, although the number sounds large, is still onerous to those very few individuals. I believe there are statistics on the number of people who have conditional orders and have subsequently applied. Those particular landlords had done substantial work, and that would be the reason they would have applied first for a conditional order. Otherwise they would have undertaken the work and then applied directly for an order from the minister.

There are some people also included in that group who undertook a conditional application as a prerequisite for exemption under the Rental Housing Protection Act. This was a criterion for obtaining that exemption. What these people had done was taken basically uninhabitable places and converted them into excellent accommodation for renters. That was not at a cost that would be recognized by that 15% cap. Those are costs that would have exceeded that amount, and maybe on a phased-in basis, some consideration for those who took that extra step beyond what was generally required by landlords should perhaps have some consideration.

The third area of consideration I wanted to touch on today is the rollover of allowances that exceed the cap recognized by this legislation. The ultimate goal of this legislation, we all are very much aware, is to protect the tenants, but it is not mutually exclusive to recognize the needs of landlords in that process.

Previously one of the members of this committee had requested of a landlord who was a deputant here, "Why must you do all the work at one time?" I would like to answer that question, as from my experience representing a number of landlords, I believe I have a good understanding of that.

Generally I have found that landlords must obtain perhaps a second or third mortgage on their property to obtain financing to fund those capital expenditures. When they go to the bank and request a loan and register it as a mortgage against the property and those funds are advanced, it is obviously most economical to get the funds to do all of the work that they require, considering the age of the housing stock.

Second, they would want to expend that money as quickly as possible because they are paying interest on those funds. So it would be prudent for a businessman in that position not to obtain a second mortgage and sit on the funds over a number of years before he expends it, but to do the work when those funds are advanced. They do not have the possibility the next year or the year after to go back for a third, fourth and fifth without paying onerous interest rates.

In addition to that, the disruption that is caused to tenants, and the difficulty it causes the landlord in co-ordination requires a landlord, for example, if he is putting up scaffolding on the side of the building to do the windows or aluminum siding—you do not set up a full scaffolding system, then tear it down, then put it up next year to do aluminum siding, then tear it down, and then do tuckpointing the following year. All the work that would require such a major construction would tend to be done at that same time.

Last, I think it is a generally accepted principle that the experience of rent review is not a pleasant one for landlords or tenants, and the requirement to do it repeatedly would certainly not be one the landlord would like to undertake. It is confrontational, it is difficult, and the sooner they get it over, the better. Making a legislation of this nature, that requires the landlord to go back year after year, and not recognizing the possibility of further extended rollovers, I do not believe really benefits either party. If that rollover recognition could be extended, at least to accommodate the major work that is required by the aged housing stock, I believe it would limit the number of applications required,

and landlords would still have the ability to recognize the costs that were incurred.

That leads me to another area of consideration, which is the minus 2% in subsequent reviews. In our experience, landlords generally undertake a small amount of capital expenditures annually, regardless of the need for any major item. I have found, through my reviews of their financial statements, that there is always some plumbing, some electrical work, a major roof repair, something of that nature, that is ongoing. If a landlord incurs a major garage cost or a roof replacement, that does not preclude the need in the subsequent years still to do those general minor things, and this reduction, even on a carry-forward in the subsequent application, only promotes the number of applications that would be required by landlords. In so doing, it does bog down the system.

We hopefully will not, but maybe, looking at these severely retroactive orders, especially in view of the fact that it is a hearing, a personal attendance, that may be required at each and every application—those are difficult to schedule historically, under the Residential Tenancies Act, as we have seen, and it causes substantial delays to get everybody together. The limited number that may be required would probably facilitate the system, and I do not believe there would be any major windfall to the landlords in so doing, under those specific circumstances.

The last area I would like to touch on is with respect to the elimination of appeals and the resultant rehearing by the same person when a serious error occurs. The appeal process under this legislation affords both landlords and tenants the opportunity to correct either misinformation, inadvertent omission of information, or purely just the confusion on the administrator's part in issuing an order. It gives both landlords and tenants the opportunity, at another level, to correct or right a wrong that was done in a first-level decision. If both landlords and tenants are forced to go to Divisional Court on only a point of law, we will have major errors enshrined indefinitely in legislation, we will have errors that cannot be truly be corrected; or the alternative is both for landlords and tenants to incur substantial, heavy legal costs to go to Divisional Court. I think that would be a hardship to both parties.

The alternative that was proposed in this legislation, similar to the one that we have right now, is that the person who issued the order in the first place has the ability to determine whether he made that mistake himself, and then rehear. Again, experience has shown that it is very difficult, depending on the personality, to admit to major errors that were made by oneself and then, from an unbiased perspective, look at those mistakes and try to correct them. I am not saying it cannot be done, but the outward appearance of bias in that position is quite obvious and, I think, quite possible.

At the very least, the recommendation would be that someone other than the person who made the error in the first place should have the responsibility of determining whether a serious error was made. At least with that opportunity there would be a somewhat fewer number that would be required to go to Divisional Court in the event that there is still, after that process, an error enshrined in the order, and have then the opportunity, without incurring substantial legal fees, to correct it if that is a wrong.

1600

I have supplied a brief on behalf of the Rent Review Consultants of Southern Ontario which addresses in part some of the areas I spoke of and, in addition to that, because of the limited time, addresses some of the other areas. If you have an opportunity, I would appreciate it if you could give your attention to that brief.

Ms Harrington: Thank you for your brief. I certainly will read it. We are concerned also about the appeal procedure, and we are looking at that. What would you think of a one-year rollover extension?

Ms Waese: Obviously, any rollover extensions are an improvement, but the point is that with the cap imposed by this legislation, if there was an ability to recover a full major cost—and that could easily be calculated, the length of time that would be recovered—if the rollover period would accommodate something of that nature, it would at least be some assistance to those landlords who have to incur those big costs.

Ms Harrington: Would one year help at all?

Ms Waese: Minimally.

Mr Tilson: You obviously speak with authority on this subject. I do not know whether you can perceive or observe trends. Much time has been spent with respect to other jurisdictions and observations of other jurisdictions, specifically New York and where rent controls have become quite restrictive, of the games that are played, specifically by tenants in causing rents to be reduced; I am sure there are similar games played by landlords. Do you perceive in your observations of the systems that those types of games are starting in Ontario as a result of rent controls?

Ms Waese: Attempts have been made, in limited circumstances, to do that. The trauma truly that would be caused to a landlord would be with that potential of reducing a rent roll, and the exposure when he has already incurred indebtedness against the building. That should be looked at and at least tightened so that sort of thing could not happen; that it would be limited to those issues and not such a broad range, the way "inadequate" is referred to in this legislation.

Mr Tilson: We put forward during the Bill 4 hearings an amendment that if tenants and landlords could agree on capital expenditures, even if they resulted in high rent increases, that would be acceptable. That, of course, is precluded in this legislation. Do you see any difficulty in that type of provision?

Ms Waese: You will find that the minister, as well as the other parties, received a lot of documentation from tenants with respect to the Bill 4 legislation that stated they were most happy with the nature of the work that was done and do not mind the increase. In some instances, as long as everybody is agreeable to the work and the resultant increase, obviously it would be an improvement. Buildings would be improved and there would not be the unhappiness that is going to be promoted through this legislation.

The Vice-Chair: Thank you, Ms Waese. I call Nicholas Patterson of the Canadian Development Institute.

Mr Tilson: On a point of order, Mr Chair: I know the speaker after Mr Patterson is Mr Hulchanski, who is giving a comment with respect to British Columbia controls. There appears to be, in flipping through some of Mr Patterson's paper, a further review with respect to British Columbia or a pullout of rent controls. I believe these two individuals give quite different impressions, just from what I understand has been presented to us in the past, and I would therefore move that perhaps Mr Patterson be allowed a half-hour, as would Mr Hulchanski, so we can properly assess their respective positions.

The Vice-Chair: We need unanimous consent, or was it a motion?

Interjection: Why is Mr Hulchanski getting more time?

Mr Turnbull: Because he was proposed by the NDP, that is why he is getting more time.

Interjections.

The Vice-Chair: Order.

CANADIAN DEVELOPMENT INSTITUTE

The Vice-Chair: Welcome to the committee, Mr Patterson. You have 15 minutes to make your presentation. Would you introduce yourself, your organization, your position within the organization and then commence your remarks.

Mr Patterson: My name is Nicholas Patterson. I am executive director of the Canadian Development Institute. Our brief sets out the background of our group as an Ottawa-based, public policy think tank, along with our special expertise in the subject of rent controls, going back to 1985.

I was going to talk about our extensive research on the subject of decontrol, which Ontario should now be implementing, and that is what our written brief is about. But why waste my breath talking about research and the facts to this disreputable NDP committee? Initially, I thought "to hell with it."

The reason I decided eventually to come here was to talk about a serious public scandal, the atrocious and shocking mismanagement of Ontario's rental economy by this incompetent government. Rent control is always a political free-lunch disaster and today rejected as a dud almost everywhere else in the industrial world. And now it is about to enter a nightmare phase here in Ontario, à la New York and dozens of other cities around the world destroyed by rent controls. This is on account of this incompetent government of boobies and its ideologically driven, Marxist doctrine of hatred for private landlords, an outmoded concept of old-line socialism based on class warfare and the belief that private enterprise is essentially an exploitative system set against the poor. This is despite the now overwhelming evidence that it is this outmoded form of coercive socialism, the Bob Rae variety, not capitalism, which confiscates their property and holds the people in bondage.

Bob Rae is certainly into confiscation. His outmoded form of coercive socialism is based on big government, huge deficits, more welfare and massive regulatory intervention, along with a good measure of nationalization and a healthy dose of outright confiscation thrown in, just so we all know that Bob Rae is the boss. This is a tried and true formula for failure and stagnation by ideological egomaniacs in eastern Europe, China, much of the Third World and in the so-called social democracies of western Europe and Australasia. All these socialist democracies, including France, UK, Australia, New Zealand and most recently, Sweden, each one of them has had—

Interjection.

Mr Patterson: I beg your pardon? Let me talk. You talk after, fella. Be quiet. Chairman, get him to shut up, will you?

The Vice-Chair: Order. Interjections are, of course, out of order.

Mr Patterson: Each of these social democracies has taken a pronounced U-turn. They are all vigorously reversing decades of debilitating socialism through deregulation, privatization, balanced budgeting and by shedding their former hatred of free enterprise. It is about time you guys did that.

1610

But not Bob Rae. Quite the contrary, he is going after the auto insurance industry by virtually confiscating it and apparently without compensation. This is because insurance is a favourite capitalist enemy since the writings of Lenin. He is also regulating the trucking and private day care industries into the ground, again an effective confiscation. Why? Because the very idea of private enterprise taking care of kids is one of Bob Rae's hates. He also hates food banks because they are based on private initiative and voluntarism rather than big government. He promised in the election he would put them out of business, setting government agencies in their place. But he is holding back a bit on this one, I noticed recently, because this lunatic idea created such a public outcry. He is passing all kinds of new legislation, much of it, he boasts, the most progressive—read "extreme"—in the world, that will reinforce our growing uncompetitiveness.

We now all know about Bob Rae's real agenda for the confiscation of the private rental housing industry which he openly disclosed in plain English in an interview in the Federation of Metro Tenants' Associations' newspaper, Tenant Bulletin, in the winter edition of 1989. This is his totalitarian scheme to confiscate private rental housing by driving down the price through tougher rent controls, then having the government buy it up cheap. There is no doubt about what he said in the plainest possible English. But this is nothing new, because it is the classic formula long applied by totalitarian regimes around the world. If you want to take over an industry, first you regulate it into the ground and then you buy it up cheap. That is what Marx said, that is what Lenin said, that is what Bob Rae said too, and that is exactly what Bob Rae is doing through this bill and Bill 4.

Bob Rae has a pretty ambitious program and a very disreputable and underhanded plan on how to do it. No surprise, therefore, that it necessitates a good deal of misrepresentation to accomplish it. Winston Churchill coined the phrase "a bodyguard of lies," which was needed to protect the truth of the Normandy invasion. Bob Rae and

his government also have their own bodyguard of lies, even if his goal is a good deal less honourable than Churchill's. What is Bob Rae's bodyguard of lies? It is nothing less than a shameless campaign of barefaced falsehoods coming straight from the Premier of Ontario and his government, claiming widespread abuses under Ontario's previous system of rent control as a justification for the radical tightening in this bill. In other words, there was so little public demand for the changes of this bill that he had to stir it all up himself. This bodyguard of lies includes falsehoods about widespread high rent increases; false claims of generally unaffordable rent levels; dishonest allegations of widespread speculative flipping of apartment buildings to justify rent increases, and his claims of purportedly high landlord profits. The important point is these are demonstrably false and, more important, they are the basic rationale for this bill. What a scandal.

Some months ago we did some extensive research documenting in detail all these falsehoods. We set it out in our testimony before this committee on February 15 in Ottawa, then in our presentation of March 7 to the minister, Dave Cooke, which was suppressed by him at the last moment. At the time we were all mad as hell about this, but we issued a press release on it and it was very widely reported because it was such a scandal. But the suppression of free speech, of course, is very much a part of the strategy of the big lie. I will provide the committee with a copy of the extensive research we have done on this.

Let me just conclude by saying that the cancer of Bob Rae's policies and his old-line coercive socialism is spreading. In just 11 months we have rental housing, auto insurance, trucking, food banks and private day care all being regulated into the ground, just confiscated or taxed out of existence. We have got stupid new legislation affecting all industry, raising costs and reducing our competitiveness, thereby cutting our standard of living. This is pay equity, labour organizing, higher minimum wages, higher corporate taxes, and the classic radical socialist measure, a tax on wealth through reintroduction of succession duties, which every province, including Ontario, dropped 15 years ago. In 11 months, Bob Rae has degraded Ontario's credit rating and ruined our standing as a dynamic place to invest. He has created in its stead a large-scale flight of capital. In other words, Bob Rae is the best thing that ever happened to Buffalo. Thank you.

Mr Callahan: I note you have some information attached to this: "Decontrol—The Time is Right." I have not had a chance to read this, nor has anyone else, and I thought maybe you could advance your thoughts about decontrol.

Mr Patterson: The time is right for decontrol for a number of reasons. The first and clearest one is that the vacancy rate now in Ontario is very high, 2.3% across the province and in Toronto 2%. That means that the risk of a post-decontrolled bulge of prices would be much, much less.

Mr Callahan: Why is that? Do you have any studies as to why that is, why the vacancy rate has gone up?

Mr Patterson: Why it has gone up? The one area of important freedom in the housing economy is in the production of condominiums. Is it not just marvellous how this free enterprise sector, condominiums, has come in and rescued the rental housing sector, which of course has been ruined by government controls. In other words, overbuilding of condominiums are now being offered up for rent, and there are so damn many of them, an oversupply, that they have created a big vacancy rate in the rental housing sector. Does that explain it?

Mr Turnbull: Turning to appendix C of your presentation, you have included some CMHC figures showing the vacancy rate comparing Toronto and Vancouver and the average monthly rents in Toronto and Vancouver. I am struck by the fact that since deregulation of rent controls in BC—I have not done the exact math, but quickly eyeballing it—it appears that, on average, rents have gone up less in BC than they have in Ontario under rent controls and that the vacancy rate has gone up. I know there was an initial time frame where there was not much construction after they took rent controls off, but then afterwards it gathered momentum. Could you comment on that?

Mr Patterson: Vancouver is an astounding proof. I think there was this fellow Rainville who was trying to claim that the Vancouver case proved that the private free rental market did not work. They call him Rainville, and I guess that is because he is all wet, because his observations on Vancouver are absolutely clearly disproven by a brief look at CMHC. CMHC figures prove that as soon as they took rent control off, the very same year, the vacancy rate went from virtually zero to 2.5%, in one year. At the very same time, Vancouver started a seven-year continuous period where—under rent control Vancouver rents were higher than Toronto. Under decontrol, over the last six years, rents in Vancouver have become lower than Toronto.

In other words, Mrs Harrington, can you not see that this is a clear proof of what you should do, for goodness sake? I mean, it is as obvious as the day is long. What is wrong with you guys?

1620

Mr Perruzza: I will keep my comments really brief. I guess part of any listening exercise is to take as much abuse as one can level at you.

Mr Patterson: Just the facts.

Mr Perruzza: I have to tell the witness who is appearing before us today that it is precisely his small-minded, tunnel-visioned attitude which essentially shackled this country from burgeoning into the type of country that we could otherwise be—

Mr Patterson: Oh, come off it. Baloney.

Mr Perruzza: —both in our social infrastructure and as an industrial power.

Mr Patterson: Till you guys came along.

Mr Perruzza: I would also remind him that the Tories governed this province for close to 40 years and essentially kept this province from being able to—

Mr Patterson: It became the richest place in the world, that is what.

Mr Perruzza: I would remind the deputant who is appearing before us that the Tories are governing federally

and, quite frankly, in my view they are selling this country for a photo opportunity with the American President.

Mr Patterson: Oh, how impressive. How impressive that is, a photo opportunity with the President. My gosh, you are a good talker. What a bullshooter.

Mr Perruzza: Mr Chairman, if people like this gentlemen here and the federal Conservatives—

Mr Patterson: Towering intellect. God, they are full of them.

Mr Perruzza: —had their way, we would lose even our Third World industrial rank.

Mr Patterson: Oh, my God.

Mr Perruzza: I will have to tell you that Bob Rae and the NDP are here and that is not going to happen, precisely because we are here and because we do not have the small-minded, tunnel-visioned attitude that has been persistent and prevalent in this province for many, many years, held by the Pattersons of this world.

Mr Patterson: My gosh, you sure know how to hurt a guy. I am just cut to the quick.

The Vice-Chair: There was a question? No. Mr Abel.

Interjection.

Mr Patterson: When we do research on a subject, we come to a factual conclusion.

The Vice-Chair: Mr Abel.

Interjections.

Mr Patterson: Oh, baloney.

The Vice-Chair: I am sorry, Mr Abel.

Mr Abel: Thank you, Mr Chair. I have so much to say, but I would like to pass to Mrs Harrington.

The Vice-Chair: I am sorry, Mr Abel. The time has gone. Thank you, Mr Patterson.

Mr Patterson: By the way, when this fellow Hulchanski comes along, be sure to show him those statistics, because I think he is going to give you a bit of the old NDP BS.

The Vice-Chair: The next presentation is David Hulchanski.

[Interruption]

The Vice-Chair: Order. I would remind everyone, especially those who are in the audience, that there can be no participation in this committee. This is an extension of the Legislature; no demonstrations or comments can be made.

Interjections.

The Vice-Chair: Order.

Interjections.

The Vice-Chair: Order.

Mr Wiseman: On a point of order, Mr Chair: I would just like to make a comment that this committee is seeking to analyse this bill in the best way possible and that vitriolic expressions from either the right or the left do not really contribute a whole lot to the discussion and to the analysis of the bill and do everybody here a disservice in terms of the way they portray themselves to the viewing audience and to the people who are here.

There is an old saying that if you have nothing to say, you should just say it over again louder and louder and louder to try and make your point. I think perhaps some people would like to bear that in mind, because lack of content does not become any better by yelling.

The Vice-Chair: That is an interesting point of view and an interesting observation, but it is not, unfortunately, a point of order.

Mr Mammoliti: Also on a point of order—

The Vice-Chair: I just ruled it was not a point of order.

Mr Mammoliti: On another point of order. Mr Chair: I would just like to allude to something Mr Turnbull said. There was a remark made about this individual having a half-hour and Mr Turnbull said it is because he is a socialist that he is getting a half-hour. What that says to me is that Mr Turnbull has a problem with what the clerk has done in regard to the scheduling. I would like Mr Turnbull to perhaps—

The Vice-Chair: I do not think that is a point of order either, Mr Mammoliti. It might be an interesting point of view.

Mr Mammoliti: I just think it is a little unfair to the clerk, that is all.

Interjections.

The Vice-Chair: Maybe we could have order, which would be helpful to us all. Let's not tease the bears.

DAVID HULCHANSKI

The Vice-Chair: Good afternoon, Dr Hulchanski. As you know, you have half an hour allocated by the committee. You can commence your presentation after identifying yourself for the purposes of Hansard, and I would remind you that we as committee members appreciate some time to ask some questions and hopefully receive some answers.

Dr Hulchanski: I am David Hulchanski, professor at the University of Toronto, but only recently so. For the past eight years I have been a professor at the University of British Columbia. I went there in 1983, a very convenient time for a housing researcher and a housing professor. That is the year rental decontrol happened in British Columbia, so I have been following that very closely. Between 1983 and 1991, when I was at UBC, I also served a term as director of the research institute there called the Centre for Human Settlements, which also did research in affordable housing and rent controls and rent regulation. Prior to that I was in Toronto doing a master's degree and PhD and teaching at the University of Toronto from the early 1970s up until 1983. I was a research associate also at the U of T Centre for Urban and Community Studies.

At UBC I followed the boom/bust cycle very closely. There was the real estate boom that collapsed in 1981. A severe recession followed that, and then there was another boom in the 1988-89 period. So we have a fairly good case study of both rent control, which existed from 1974 to 1983 in British Columbia, and then rent decontrol in the period since 1983.

In addition to this, I have done housing research on a variety of topics, which I will not go into now, but in 1984

I was one of several consultants to the Thom commission here in Ontario, the Commission of Inquiry into Residential Tenancies, and I will make reference to that in a moment.

My research on BC rent decontrol is finished, but I am in the process of writing that up now. The move has delayed me a bit. Some of my findings were published earlier in a research bulletin called Rental Housing Trends in the City of Vancouver, where I traced what happened to rental housing in the city of Vancouver after 1983, after the rent decontrol.

What I want to do today is two things: briefly outline my research in rent regulation, those aspects that I believe will be relevant to this committee's work, and this is drawn from my Thom commission work and my BC case study of rent decontrol; and I want to comment on problems of doing research in general on the impacts of rent controls and how easy it is to jump to conclusions looking at certain data. There is a difference between proper research methodology and theoretical claims that are starting with conclusions, selecting data that seem to conform and then celebrating those particular data.

First I want to talk about the rationale for rent regulations, why might we have rent regulations. This was the task I was assigned in 1984 by the Thom commission. I wrote research study 6, with the exciting title of Market Imperfections and the Role of Rent Regulations in the Residential Rental Market. The key words there are "market imperfections and the role of rent regulations," what is going on with the rental market and why might we need rent regulations.

1630

I make two basic points in that report which I think are still relevant today and relevant to this bill before you.

The first point is that there is failure of the market mechanism in the rental sector. Supply and demand, everybody knows and can notice pretty easily, is not working as it should. What economists would call market equilibrium, where supply and demand are in balance, at some stage at least, should happen in all markets. If there is a shortage of ice cream or shoes or something like that, you make more, you catch up with the shortage and so on.

In the rental sector, we have lots of demand but very little supply of new rental housing. But the demand we have—and this is a difference from the 1960s—is not market demand, or it is not effective demand. It is not people with lots of money in their pockets; it is social need. It is people without enough money to afford what the market could build and what it needs to make money on building rental housing.

This failure began in the late 1960s and early 1970s. It especially started with a severe inflationary crisis that resulted from the 1973 energy crisis, with energy prices going up and what that did to not only the Canadian but the world economy. For the first time, we started having all that inflation, the high and unstable interest rates and all those difficulties, and we continue to have conditions like that today. So chapter 3 of that report I did for the Thom commission—and I will just refer to what is relevant here—talks about the problematic characteristics of the residential rental market.

Mr Tilson: On a point of order, Mr Chairman: The motion that was made for to this person to address us was with respect to informing us on rent controls, before and after, in British Columbia. I think we are interested in hearing about rent controls in British Columbia and I am wondering if you could direct the speaker to limit his remarks to British Columbia.

Dr Hulchanski: I am getting there. That is my objective, but there is a two-part objective.

The Acting Chair (Mr Callahan): I am not sure that is a point of order. I think we invite witnesses before our committees. This is a learning process.

Mr Tilson: This motion was brought forward by the government in Windsor. The purpose of the motion—

The Acting Chair: Let me just look at the motion.

I was not in Windsor but I have had an opportunity to look at the motion. You are quite right. It was to share with this committee his expertise on British Columbia rent control. But I think if this committee is to have the benefit of it, as Chairman I am going to exercise my prerogative to allow him to review that with us but at the same time to have some latitude to compare it to the present situation. I think to do otherwise would be perhaps limiting a witness in a way I do not think we should limit our witnesses, really. They are here to—

Mr Tilson: The only thing I have heard about British Columbia is that he lectured at the UBC. I think the purpose of the motion—

The Acting Chair: Let's let him continue, and if we get to the point—

Interjection.

The Acting Chair: Just a second now. Anyone who wants to chair, let him come up.

Mr Mammoliti: Sorry, Mr Chair.

The Acting Chair: Give him an opportunity. If it does get too far beyond what was the purpose, then perhaps I will intervene, but for the moment I would like to hear a little bit more.

Dr Hulchanski: There is a logic to the flow of what I am saying. One is talking about the potential rationale for rent regulations and then what are the impacts of these regulations, and that is the British Columbia case study of what regulations and the decontrol of these regulations do.

To carry on, there is the failure of the market mechanism. Why did it fail? There are internal and external reasons, if you think about it for a moment. I will not go through all of them, but think about the filtering process. If we ask how poor people get rental housing, the answer is filtering. But what happened beginning in the 1970s? Upfiltering—gentrification—was just one of the factors that happened back then, but there are all these external constraints that happened to the rental market that led to rent controls throughout the country—the inflationary period in the early 1970s, the rising mortgage interest rates.

Remember, until the late 1960s you could get a 25-year mortgage as home owner or rental housing investor. I will refer to some data soon about how condominium tenure allowed people to own apartments. What did that do? It

had the side-effect of creaming the higher-income renters from the rental market, so that increasingly there is only poor people in the rental market, not the higher-income people.

So you combine gentrification with the fact that there is a smaller group of higher-income renters who can afford the new stuff that builders can build and you cannot make money—that is the point—starting in the early 1970s in the rental sector.

What has gone on increasingly in Canada, and it is well documented, is the polarization of households by tenure and income; that is, unlike the late 1960s, most of the highest-income groups—the fourth- or fifth-income-quintile people—are home owners now. As high as 27% of the highest-income-quintile people back in the late 1960s were renters. So you can see that if you want to build rental housing you have a market there because new buildings cost more to rent. It is logical. But they fell from being 27% renters down to 13% renters in a period of about 15 years. Because of what? If you want to live in a nice location you now have the choice of condominium tenure. I am not knocking condominium tenure. It is fine. It is just a fact to explain why it is so difficult for builders to build rental housing these days and make money.

Now, the second point here—and then I get to the British Columbia case and we carry on.

The Acting Chair: I was just going to ask you to do that.

Dr Hulchanski: I noticed.

What are the potential rationales for rent regulation? If you have conditions of market failure where supply is not matching demand, what is protecting people in that marketplace? The market is not protecting them any longer, so you need some form of consumer protection legislation.

BC was the first province—aside from Quebec, which always had rent controls going away back—to introduce rent controls, back in 1973. Why? As a form of housing-related consumer protection legislation. They were not introduced as a solution to the housing problem. It is very clear they were not introduced to subsidize tenants. They were not even considered a housing program.

In BC, as originally here in Ontario, the rent regulation legislation was part of consumer and corporate affairs. It was a consumer type of legislation, something to protect people in a condition of market failure. That is why I feel Bill 121 or a bill like it is absolutely necessary. Until supply and demand are in equilibrium, what is protecting people in the rental marketplace?

Having said that as preface, I turn now to the impacts of rent regulation. We have rent regulations, and those are a few other reasons why we have rent regulations, but what are their impacts? Here you find all kinds of claims about the impacts of rent regulations.

How can this be researched? There is a variety of ways. It is a difficult methodological issue, but a case study is one appropriate method, ideally a Canadian case study because the tax system, housing conditions, housing markets and all that in other countries are quite different from Canada's. So it is nice to have British Columbia, the third-largest province, the province with the third major metropolitan area, have a period of full regular rent controls, 1974 to 1983. They are called second-generation rent controls in the literature; that is, they allowed cost pass-throughs and all that kind of stuff. There were regulations in place under two governments. Both the NDP and the Social Credit governments maintained these rent controls for the 10-year period. In fact, they existed mainly under the period of the Social Credit government. Then there was decontrol in 1983. We have had at least seven or eight years now of no rent controls in British Columbia.

How does one research this? Let's start with one's conclusions or assumptions or generalities about this politically charged issue. What I did was identify all the theoretical claims that were made about what would happen if you decontrolled rents. Okay? You are hearing them here. There are all kinds of claims. "If you decontrol rents, X, Y and Z will happen." There are politicians making claims about what would happen, there are academics making claims about what would happen and there are lobbyists of all sorts from both sides making claims about what would happen if you decontrolled.

1640

It is very easy to go back to 1983, to the Legislature debates, the newspapers and other sources like this, and see what people said. It is all documented in my study, what they all claimed. But then what you do is to take those 1983 claims and collect empirical data to see if their predictions—and you turn those predictions into hypotheses—are correct and did they indeed happen. I have 20-year runs of all kinds of numbers, the 1970s to 1990s, all kinds of indicators.

What did I find? The major claims which could be empirically tested, and not all could be, as research hypotheses included claims such as: rent controls decrease rental construction and then that decontrol would increase rental construction; claims that rent controls increased conversions and demolitions and that decontrol will help limit that; claims that rent controls create excessive demand for rental housing because you are subsidizing, it was claimed, tenants.

Just to give you two quotes from the minister then responsible for the legislation, in 1983 the BC minister told the Legislature, "I believe these deregulatory measures will ultimately result in new real estate development, more jobs and a continuing healthy availability of rental accommodation." He also noted that, "We feel, as economists have stated in the past and continue to state, that it will provide opportunities for new construction in a society where you don't have rent controls." So there is a claim there, a theoretical assertion yet, about a link between rent controls and rental housing supply, and that is what I want to say something about here.

Is there a link between rent control, rent decontrols, your rent regulation systems or their lack and rental housing investment? That is why my preface was necessary. In theory, this seems logical, but in reality? We have a real case study. What did I find? We can guess at some of the findings.

First, what was really important? What was a causal relationship that could be clearly established? Well, macro-economic conditions are the main determinant on housing starts of all types. Of course, when there is a recession

there is not much house construction of any kind. When there is not a recession there is more housing construction. When there is a boom there is even a lot more, obviously. That is what really shows up clearly, all the relationships.

Second, and naturally linked, but we often forget about it, is net migration. There are periods when very few people move to British Columbia and people leave British Columbia, and the same with immigration; migration from other provinces and immigration from other countries. There are net gains or losses. BC in bad years still gains, has a net gain of a couple of thousand people. In a boom period, like the late 1970s and the late 1980s, they have a net gain of 50,000, 60,000 or 70,000 people in a year, which is very substantial, and 75% to 80% of them go to the Vancouver area, in the recent data on that.

If I recall correctly, in Ontario during the boom years some 100,000 people or so were net gain, but Ontario is much larger than British Columbia and the net gain was quite close. So the impact in British Columbia is quite large.

But what about non-subsidized market rental starts? All the way from the early 1970s to the present there have only been 200 or 300 non-subsidized market rental starts. I am saying non-subsidized because there was the ARP, assisted rental program, started in 1975 or 1978; there was the multiple-unit residential buildings program that was on and off during the 1970s and ended in 1981; there was the CRS, Canada rental supply program from 1981 to 1983. Those are subsidized private sector rental starts, so subtract those or else you are dealing with funny numbers. But there were only 200 or 300 non-subsidized private rental starts in the greater Vancouver area over this entire 20-year period. So there is no relationship with whether or not you have controls or lack of controls.

That is why my preface of why I told the Thom commission back then that there is something seriously wrong with the rental market. It started in the late 1960s and early 1970s and continues to this day. The housing starts that we have are of course the owner sector, owner-occupied housing, because that is where supply and demand works. In fact, there is a glut of condominiums, the investors and all that during a boom period getting the condominiums, and they are for rent at the moment. When there is another boom they will be sold like the MURBs were. Many of the MURBs were sold off as owner-occupied housing quite quickly once the economy picked up.

So there is just no relationship that I could find in relating all this data to periods of control or decontrol. All the swings relate to ownership housing and relate to macroeconomic conditions, which are closely linked to net migration.

Vacancy rates: There can be claims about vacancy rates this or that, and little percentage point changes here and there. They drift between zero and about 2.5% during this period. Again, no clear relationship to periods of rent control or rent decontrol, but when you do the graphs—and they will be in my study—they are clearly linked to net migration. When you have—when you are dumping 70,000, 60,000 or 50,000 new people, mainly in Vancouver, vacancy rates are going to go down to 0.1% and 0.2%. When they stop coming and you have a net out-migration of 1,000 or 2,000, which you had in the severe recession in 1983 or 1984, vacancy rates will go up, but only by about 2% or so. It has nothing to do with new supply or old supply or anything like that.

So my findings, to get to the end of that piece of research, is that I can find no link between private rental starts, that is, private, non-subsidized rental housing investment, and periods of rent control or periods of rent decontrol. So this BC case study is yet another example of empirical research which tried to establish that link, as opposed to theoretical supply and demand curves—there just is not that link.

In a recent issue of the Journal of the American Planning Association there is an article on this topic. It is an American article, but they have a summary of about 75 studies of rent control by what I would call credible researchers, either academically based researchers or by government, so leave out some of the sort of fringe think tanks and all that. Investment in rental housing, new construction: There are something like 10 studies under that category that could find no link between rent controls in certain American cities and states and new construction. The list goes on, and I have extra copies of this and the literature here. But there is a lot of very credible research along this line and the BC case study is extremely clear.

In sum, residential rent regulations are indeed, as we all know, a highly charged political issue and I believe always will be. Any market regulation, especially a price regulation, is controversial, and in housing is especially crucial. It is home and an investment, both very emotional and practical items.

Once again, I want to say I am one of many researchers now who have carried out empirical research, that is, testing—you will not find any theoretical supply and demand curves in my work—finding there is no link between private rental starts, private investment in rental housing, and periods of rent control or rent decontrol. What this means is that the provision of new affordable rental stock is a major housing policy problem—it is separate from what this committee is dealing with, I feel—whereas the maintenance of the affordability of the existing housing stock is a major regulatory problem because the rental market is not working; there is not supply and demand.

Again, the reason there is not supply is you cannot make money at building new rental housing. Ask developers. Bring developers here and ask them, "Why aren't you building? What rents would you have to charge?" They will tell you "A thousand and some, 1,500 bucks or so." What per cent of renters could afford that? Well, 2% or something, and it does not work. This is why the smart money, the big developers, Cadillac, back when it was Cadillac, and now Cadillac-Fairview, in the 1970s, noticed these trends. They have their analysts. It was in the early 1970s and mid-1970s they all got out of the rental sector. You cannot make money in it in new supply.

So this is what I am saying. It is very important for this committee's work that there are in fact two issues that should not be mixed up: There is a housing policy problem, which is how to get new rental housing supply; then there is a regulatory problem, how to maintain the existing stock. It is a declining stock, it is an aging stock, it is a

stock I feel lots of people are playing games with. If somebody bought a rental building in the 1980s, you have to ask why. They bought it knowing there are rent controls. So I have problems when they come to a regulatory body, which is in effect what the Legislature is here, and saying, "We can't make money." Maybe you paid too much for that building. Maybe that building is older and has many problems. Why should we subsidize a bad investment you might have made? People are not asking that question, separating the two issues, the rental supply problem and then the regulatory problem relating to the existing stock.

1650

Could I ask how many of the existing owners of rental apartments are in fact investors in new rental stock? What little I know of British Columbia is that the answer is almost none. They own them for other reasons. Here in Ontario, what is the answer? I am not sure.

So given the failure of the supply and demand market mechanism in the rental sector, the aim of legislation such as Bill 121 should ultimately have, as I said back in 1984, four objectives here.

One is to help protect security of tenure, because when the market is not working, you have economic evictions, somebody just raising rents, and then you can override security of tenure legislation.

Second is to help maintain the affordability of existing rental stock. It is not to help increase the affordability or lead to new rental housing or anything like that, it is just to maintain the affordability.

Third is to help prevent a regressive income redistribution. Not all landlords are wealthy, not all tenants are poor. WQ know the data on that. But in general, more owners of apartments are a bit better off than most renters. When the market is not working, what protection is there for somebody in a marketplace where, again, it is not a choice—you must have housing. The majority of renters in Ontario—you all know the figures—cannot become home owners. CMHC releases these studies of what per cent of renters can become home owners, and it is 7%, 15%.

The Acting Chair: I do not want to interrupt you, but I would just tell you that you have five minutes left. If there are to be any questions from committee members, they are either going to be very brief questions, which is an impossibility, I think, or there are going to be none.

Dr Hulchanski: The fourth and final reason is to help mediate conflicts relating to rental tenure—the most important conflict that arises there is the price, the rent—and to keep that out of the court system. That is the problem British Columbia had, that if tenants wanted some redress, they had to go to the court system, which is clogging courts more. Of course, they do not have the money to do that, so there is some injustice there, relying on the court system instead of setting up some kind of system as Bill 121 does.

Mr Brown: There are some things that puzzle me about this. If controls or no controls mean the same number of buildings being built and the same sort of situation, if controls or no controls equals about the same in price increases, if controls or no controls equals—

Dr Hulchanski: No, I did not say that.

Mr Brown: I am looking at the CMHC statistics an that is what they say to me. If you find that is wrong—

Dr Hulchanski: Go ahead. I am sorry.

Mr Brown: That is exactly what the CMHC statistic say, that there is no relationship either. Maybe that is no true. The vacancy rate in Vancouver is actually a little bi better over time, at least it appears so, looking quickly at it The price is the same.

The Acting Chair: You are over time.

Mr Brown: The whole thing puzzles me.

The Acting Chair: You had better make your point because the doctor is not even going to get a chance tc respond to you.

Mr Brown: I would like him to respond if he could. Why would you have rent controls if none of it makes any difference?

Dr Hulchanski: The question is why do you have rent controls. The claim is there is a link between rental supply and rent controls, and that is what cannot be established.

Mr Brown: There is also a claim that affordability is a function of rent control, which is not there.

Dr Hulchanski: That rent control regulations help maintain, if they are carefully constructed, the affordability of rental stock, yes.

Mr Brown: But those statistics do not show that. The British Columbia statistics do not show it.

The Acting Chair: I have to intervene. Mr Turnbull, and then Ms Harrington, one minute each. Actually, I will give you a little more, as Mr Brown got a little more than that.

Mr Turnbull: Do you believe in private sector housing? If you do, tell me the motivation. Should the return to the investor be greater than bank interest rates, since there is risk involved?

Dr Hulchanski: Eastern Europe and the Soviet Union are teaching us that you cannot run a society without markets, and the markets have to work. That is why in home ownership and condominiums, it works—the people with money—so there is a good rate of return, a competitive rate of return with other investments.

Mr Turnbull: But there are loads of people who are not making any money on apartment buildings. You were talking about them making bad buys. I have some expertise in the evaluation of buildings and I can tell you they did not make bad buys as compared with any other real estate investment. They were typically buying at 40% of replacement value.

The Acting Chair: That is a confession and it needs no answer.

Ms Harrington: I really appreciate all of this information. I have tried to take notes on it all. Did you say there were only 200 units built from—that is not per year?

Dr Hulchanski: I can leave some numbers of this, but you have the numbers for the 1980s certainly. One year is 1988, the 300, 275, numbers like that.

Ms Harrington: So it is per year?

Dr Hulchanski: Yes, per year.

Ms Harrington: You said 75 studies of rent control in the US. What was their conclusion?

Dr Hulchanski: Similar to mine about the link between investment in new construction and rent controls. What is the link? They have not found a link. I can leave studies of this with a bibliography and identify those studies.

The Acting Chair: It will have to remain a missing link, I am afraid, because we are finished. Thank you very much. We appreciate your information and the illuminating questions from the members. We are adjourned until Ottawa, tomorrow at 2 o'clock.

The committee adjourned at 1658.

CONTENTS

Tuesday 27 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1507
Canadian Bankers Association G-1507
Ministry of Energy G-1511
Ontario Association of Property Standards Officers Inc G-1515
Ministry of Health G-1519
Rockford Holdings G-1535
Albert Faccenda G-1537
Jim Bright G-1539
Tenant Advocacy Group G-1542
Kewin and Associates G-1545
Society of Rent Review Consultants of Southern Ontario G-1548
Canadian Development Institute G-1550
David Hulchanski G-1552

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Wednesday 28 August 1991

Standing committee on general government

Rent Control Act,1991

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 28 août 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325–7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 28 August 1991

The committee met at 1400 in the Delta Hotel, Ottawa.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

LEVINSON-VINER LTD

The Vice-Chair: Good afternoon. The standing committee on general government will come to order. The purpose of this committee is to hold public hearings on Bill 121. The committee has spent a large amount of time sitting in Toronto and other centres across the province, and we are most happy to be here in Ottawa this afternoon to hear the concerns of the people of Ottawa.

Our first presentation today will be from Tony Mancini of Levinson-Viner Ltd. Mr Mancini, you have 15 minutes to make your presentation. The committee appreciates it if you reserve some of that time to allow the members some opportunity to discuss that presentation with you. You may begin by introducing yourself and your organization for the purposes of our Hansard recording.

Mr T. Mancini: Thank you. My name is Tony Mancini and I work for Levinson-Viner Ltd as a property manager, a company that manages over 3,000 units for 150 investors here in Ottawa. It is on behalf of these people that I am speaking when I say we are not happy with Bill 121. These are honest landlords. These are very hardworking people. Many have already been unfairly hurt by the retroactivity of Bill 4. Why they must suffer further with this bill we do not know. What have these honest landlords done to deserve it?

The landlords I speak of are your average citizen. I am such a landlord. I work full-time. I am not any richer or better off than you, or many of my tenants, just because I invest in real estate while everyone else chooses stocks, bonds or RRSPs. I should not be penalized and neither should the many other small landlords who like myself just did not have the resources to do what Bill 121 wants us to do. We do the best we can with the rents that are charged. Now you want us to do more with less. How can we make you understand that the cash flow is just not sufficient to maintain the properties properly?

Bill 4 is a tough act to follow. Bill 121 should therefore be an act which will motivate. It should provide strong incentives to let landlords willingly and proudly maintain their properties. It should provide strong incentives to promote more construction. Profit is the motivation we want. Bill 121, however, is a bill with a cash-flow problem and we just do not have the cash flow to make this dream come to life. Your shortsighted vision will definitely take tenants into a future of run-down accommodation.

The bulk of the properties we manage are already over 30 years old. They are well looked after, but repairs can only continue for so long and then capital improvements are required. That is just a fact of life. These improvements must all be done in a relatively short period of time. The handling of this rapid deterioration is completely ignored in this legislation. The annual guideline increase has never been more than what is required to meet annual operating costs. It is a fallacy to even suggest that 2% of it should be considered as available for capital improvements.

Fifteen years of rent controls kept rents so unrealistically low that it is just impossible to do capital improvements with the current rental stream plus 3%. Why else would most landlords get average increases of 11%? It is not from unnecessary work, but because rents have remained too low for too long while costs have escalated.

It is this kind of wishful thinking and immediate implementation of poorly considered policies that have discouraged all real estate investors both in and out of this province. Does Premier Rae think Ontario can afford more public housing while the private sector looks elsewhere for investment? His other policies are already discouraging other businesses from investing in Ontario. When will the government realize that Ontario does not have the cash flow to make all his dreams come to life? Does he have any idea how much tax revenue has been lost because of these depressed conditions? The loss of revenue from land transfer tax, capital gains, out-of-work tradespeople and real estate agents and foreign investment has to be considerable.

Real estate investment has such a great impact in our economy that these negative policies are hurting all citizens of Ontario. The existing system was not ideal, but was to some extent there and did not need a complete overhaul just because a handful of landlords abused it. The honest landlords did not abuse it and do not deserve to get punished. If so, then all welfare recipients should have their payments reduced, because a few of them abuse the system also.

It has become extremely difficult to get financing, especially when capital improvements are required. Banks are becoming much more critical because of these negative policies, depressed conditions and uncertain future income streams. We small guys just do not have the extra cash available to meet these unexpected and major policy changes. Unlike tenants, we do not have the security of government assistance if we run into trouble because of the consequences of Bill 4 or Bill 121. Is it this government's goal to eliminate us and all private sector real estate development and saddle the province with non-profit housing?

These policies have already strained landlord-tenant relationships. Landlords will no longer give favourable concessions to long-term or older tenants. The honest landlord did not deserve to be penalized for doing a good job. The honest landlord was in it for the long term and does not need to have such unmanageable conditions placed on him.

In order to restore good landlord-tenant relationships and keep private investment alive, we suggest that Bill 4 be voided, that changes in mortgage interest rates should be allowed as a cost pass-through, that the cap for capital improvements must be increased, that negative changes to the rental structure should be for major violations only and that higher-priced units should be exempt from rent controls.

Bill 121 just does not make sense. It is not good for the landlords, it is not good for the tenants, as it certainly does not provide them with better maintained or new housing to take them into the future, and it is definitely lousy for Ontario. So why is it being proposed? The changes I suggested should be immediately implemented in order to restore faith in the housing industry and to ensure that tomorrow's tenants are not all tenants of the government, unless that is exactly what it is striving for.

Mr Grandmaître: As you know, the government has committed to build 30,000 units within the next five or six years. What are your thoughts dealing with small developers, small owners? Do you see the small developer interested in this kind of partnership the province is trying to create?

Mr T. Mancini: With the government? No, I do not think so. I feel the government has with these policies scared just too many people away. They do not trust it any more. They have lost all confidence that no matter what they do they would have to watch that the government does not introduce legislation to change it, especially retroactively. So I do not think anybody is interested in going into housing right now on the private development side.

Mr Grandmaître: Rental housing.

Mr T. Mancini: Rental, that is for sure.

Mr Mahoney: With the recent announcement, although it does indirectly impact on Bill 121, of the new guideline announcement—I am sure you saw it, 6%—under the new formula you would be allowed to apply for an additional 3% if you were able to justify the backup 2%. So it is really 4% plus 2% plus 3%. We would get some complaints from tenants groups in some parts that this 9% increase is quite outrageous and is a betrayal by the government of its promises to the tenants. I just wonder how the landlords feel about it?

Mr T. Mancini: The 6% may seem high, but it is not, considering we have gone through, last year or the year before, a major jump in the water costs. This year we have had GST hit on us. The 3% just is not enough. I find that the annual increases we get in the properties we manage just seem to cover the regular operating costs to manage the properties.

Mr Mahoney: So if you look at the items that are driven by public policy decisions, such as municipal taxes or water costs or hydro costs, that type of thing, driven by public policy that you have no control over—nor do the tenants—what do you do when you face perhaps double-digit increases in either utilities or in municipal taxes and you are only allowed to apply for a 3% increase in the rent? How are you going to handle that? Are you going to close your buildings?

Mr T. Mancini: That is the question we would like to get answered.

Mr Mahoney: Have you thought about it? Have you sat down with your advisers to figure out how you can—

Mr T. Mancini: We are worried. Basically, the only way to do it, if you cannot get it through the rents, is to try to cut back on something else so that your net effect comes to the same.

Mr Mahoney: What could you cut on?

Mr T. Mancini: With this new bill you cannot cut on anything, because they will reduce the rent if you cut back on anything. What can you cut on? I do not know. If you decide to paint a hallway this year, you forgive that if your costs have gone up somewhere else.

1410

Mr Tilson: The government has indicated, not only with the introduction of Bill 4 but with the introduction of Bill 121, that the purpose of that type of legislation is to stop the terrible abuses of landlords. Flipping and marble foyers were the favourite examples given by the former minister, Mr Cooke, some of which were true, but statistics show he was exaggerating. I would like you, as a property manager and obviously an advocate for landlords, to tell me what sort of abuses there are that concern you with respect to tenants and what sort of legislation could be implemented or amendments made to this specific bill that might deal with abuses by tenants.

Mr T. Mancini: I do not know what wording I would put in to prevent the abuses.

Mr Tilson: I am not looking for wording, just theories, I suppose. Obviously you have not thought of it. I do not mean to be providing a trick question.

Mr T. Mancini: I know. I do not have an easy answer for you. Just speaking for ourselves, we did not abuse it; we only did what we had to. It is hard to say put a cap of 10% or 3% or 8%, because some rents are unrealistically low so the percentage does not mean anything because the cost is still there.

Mr Tilson: Let me try another question. You have indicated that you will not have enough capital funding, yet the government, in this legislation, has confirmed that obviously it is going to encourage the increasing of municipal and provincial bylaw enforcement officers to step up the improvement of some of the landlord abuses, and there are some. There is also a new threat, this issue of neglect. We do not know what it means. If there is neglect, if it can be defined, rents will be reduced, yet you and many other landlords are saying, "We simply can't afford those capital improvements." You have indicated you are asking the question, what will happen with respect to mortgage people calling in the mortgages, but what will happen with respect to those situations, with respect to the work orders,

with respect to the reduction of rents that may or may not come?

Mr T. Mancini: A landlord, if the worst comes to the worst, will just walk away. If they do not have the money, they just do not have the money. It is going to be hard to define neglect. That is a very tricky one.

Mr Tilson: Have there been any signs of that at this stage, of possibly landlords walking away from it because they simply do not have the financial resources, in this area specifically?

Mr T. Mancini: I do not know of any, no, not personally.

Ms Harrington: I would like to tell you what we see as our mandate as the Ministry of Housing in Ontario. It is a big picture. It is more than just rent control, but that is an important part of it. We want to provide a large number of options for housing in Ontario. That is our mandate, to ensure that there is a selection for people, whether they want to own homes, whether they have to be in the Ontario Housing Corp, whether they have a mobile home or whether they are part of non-profit housing or co-op housing. A very big part of ensuring that there is affordable housing in the future is the private rental market, which is exactly why you are here today. Our government believes this is a very important part of the future of Ontario's options in housing and we are willing to work with you. I think that is very clear.

Mr Tilson gave an answer as to why this bill was brought in. I would like to explain to you just why this bill was brought in. First of all, the basic reason is stability of rents so that people's rents will not escalate beyond their means without any control and their homes are taken from them under their feet. I think landlords can understand this. Landlords want stability. They do not want their tenants moving any more than the tenants do.

The other reason—the previous legislation was a shambles—is that maintenance is a very important part of this bill as well. We honestly do believe regulation in this market is important, is called for, is needed and is wanted in this province. Regulation is there in many other consumer areas. We think housing is a basic thing in your life and needs to be regulated. We will discuss the various percentages. I was going to ask you about some of the increases you have gotten in the past, but I will hand off to my colleague.

The Vice-Chair: Perhaps Mr Mancini could respond, although I did not hear a question.

Mr T. Mancini: I did not hear a question either. She just gave me their policy.

Ms Harrington: I was going to ask about your increases in the past, but maybe I can ask you afterwards.

Mr Perruzza: I just have a very quick question. One of the arguments that is traditionally made by landlords and developers is that if you removed rent controls, new rental housing stock would quickly be developed. Do you feel that is an accurate assessment? Second, what would be the market value levels in this area for new rental housing?

Mr T. Mancini: Would new apartments be built? That would only happen if the developers were confident that in a few years rent controls would not be reinstated. They need that confidence. Right now it is not there. What is the rental range for new stuff? For a two-bedroom I would say probably $750.

The Vice-Chair: Thank you, Mr Mancini. The time has expired. We appreciate the time you have taken to come before us today.

1420

SEIGNIORY TENANTS ASSOCIATION

The Vice-Chair: The next presentation will be made from the Seigniory Tenants Association, Margot Doble, president, and Kim Walsh. Good afternoon. Welcome to the committee. You have 15 minutes to make your presentation, if you would commence your presentation by identifying yourselves for the purposes of our Hansard.

Mrs Doble: My name is Margot Doble and I am the president of the Seigniory Tenants Association.

Ms Walsh: I am Kim Walsh and I am the general counsel for the Federation of Ottawa-Carleton Tenants Associations. This presentation is primarily Mrs Doble's, but I am here to answer some questions if need be.

Mrs Doble: I am here mostly to address this new rent control bill, Bill 121. As a healthy and active senior citizen living in a complex where the majority of tenants are in my position and living on fixed incomes, I would like to address the cost of the 2% allowed to the landlord, Urbandale Realty Corp. Although this bill is certainly a step in the right direction, certain amendments must surely be made to be fair to us all. The government is seemingly forgetting that the 2% has been compounding since 1987 and will do so until about 1992. This should have been a one-time increase and should not have been allowed to build up in the rents, as it is grossly unfair to the tenants. This government, before election, made many promises to the tenants, and now that it is in power it seems to be reneging on its promises. We feel we are not much further ahead in trying to get the government to listen to the tenants.

In all fairness, I should say that maintenance at the Seigniory has improved substantially, but the tenants in our complex, as compared to some other Urbandale properties, are responsible for the cost of our hydro. There is no air-conditioning supplied, nor are there any dishwashers. In addition, new tenants are responsible for the painting of their apartments. With the implementation of the GST, which augments the cost of our telephone, hydro, cable and any goods and services we purchase, why should we also have to pay the landlord's cost for his GST charge? This is double taxation as far as we are concerned and relieves the landlord's burden at our expense.

If these above-the-guideline increases continue, only the wealthy will afford apartments which were formerly occupied by individuals who had saved for their retirement so they could enjoy their golden years living independently and comfortably in the manner to which they were accustomed. If the escalating costs continue, these tenants will be spending the major part of their incomes on rent. It simply is not fair that they should be living from year to

year in a state of uncertainty, not knowing what their rent will be the following year.

While I have addressed the senior group in our complex, I do not wish to exclude those who are still working. During this period of recession, some of them have been or could be laid off from their jobs. Others are getting no increases or a very small increase in salary, such as civil servants who are facing a 3% wage cap. Costs for these people are also escalating. Each year transportation goes up, the cost of gas, clothes, hydro and food and the like, but their salaries are not keeping pace. Tenants want to live in clean, safe surroundings, but what will be affordable to them if they continue to pay increasingly high rents so that the landlord can realize his profits?

In light of the foregoing, I feel amendments must be made to Bill 121 that will ensure fairness and affordability to all tenants and cease subsidizing the landlords for their extra costs. This bill, as its predecessor, provides relief not for the tenants but for the landlord. We ask, therefore, that great consideration be given all amendments put before you this day. Thank you.

Mr Tilson: As I understand it, your concern is what we have heard from many tenants' associations, particularly tenants' associations which consist of seniors, people on fixed incomes and people who are poor, who cannot afford any increases whatsoever. Of course this legislation provides for automatic increases, whether they are justified or not, or whether there may be situations where there perhaps could be reductions, but it does not allow for that. It allows for the landlord to continue getting those automatic types of increases.

I guess the concern our party, the Progressive Conservative party, has is with respect to the unfairness of that situation as opposed to the wealthy tenant. The wealthy tenants can afford all kinds of increases, if necessary, because many of them are living in luxury-type apartments and paying good rents and of course are just laughing at the system because they can continue to absorb very minor increases proportionately to what they are paying. My question to you is, realizing that inequity, should we even be putting forward this type of legislation? Should we be perhaps allowing for subsidies or allowances to individuals such as seniors who are on fixed incomes and cannot afford any increases whatsoever?

Mrs Doble: Most of the people in our building have been there many years and it is an old building. It is very well kept, actually, but I do not see that it is fair that the landlords have been getting increases all the time. Just as I have said, it is not fair. Anybody could see that, I think, because it is the landlord who keeps paying for whatever he has to do, which he gets at a very much lower cost than the tenant ever could.

Mr Tilson: This legislation will allow that to continue and that is why I am asking the question, why are we even having this type of legislation and how do you feel about that?

Mrs Doble: I still think it is unfair. I think the tenants have been getting it all the time and the landlords have been getting their fair share. There are no two ways about it. The tenant has kept paying and paying, and when I first came there we had to fight an awful lot to even get decent repairs made.

Mr Tilson: Do you feel the relationship between the tenant and the landlord in this particular area is deteriorating? You have seen an adversarial system even between committee members, the government's side and the opposition's side, and that adversarial system continues to increase and escalate even among people who come before us, the landlord position or the tenant position. Do you think that is the way to do things or are there other ways of resolving it?

Mrs Doble: No, I do not. I would certainly like to see the property managers meet with the tenants or the presidents and try to get to the points and see if we could not communicate a little better. But sometimes it is very difficult to get the property manager. They are always too busy or they are doing something or other because they want to avoid the issue, and when they do repairs in our complex, for instance, they are very shoddy. There is no follow-up at all.

Ms Harrington: I want to clarify one point that has been raised. The opposition has asked you whether you would be interested in a subsidy especially for people who are in need, such as seniors. On the surface that sounds quite feasible, but when you look at it the landlords are asking for a free market system in this province and then asking for a subsidy. This would be a pass-through directly from the government, not touching the tenants' pocket at all, but through to the owners of the buildings, and this would cause a $1.3-billion cost to the government. We have looked into it. I just want to clarify that point. It may sound like an option, but this is certainly not a fair system.

Mr Tilson: Good question, Margaret.

Mr Duignan: Thank you for coming along here this afternoon. I just want to get into amendments to Bill 121 a little bit. What would you like to see amended in Bill 121? What would be your first priority?

Mrs Doble: First of all I certainly do not agree with 6%. I think that is really exorbitant and it never seems to end. It keeps going up all the time and the tenants are getting really fed up. If you want to keep things on an even keel, some of this money, this 2% I was speaking about—I do not know why that should never have been used, in other words, to make these repairs in buildings and so on and leave the rent as it was before.

Mr Duignan: You would want to see the annual increase just basically roughly at the rate of inflation.

Mrs Doble: I would like to see it back to 4.6%.

Mr Duignan: Around the rate of inflation.

Mrs Doble: And let them use some of the money they already got from us in the last few years. We keep paying and paying and the rents keep going up and there seems to be no end to it.

Mr Abel: You are on a fixed income, is that correct?

Mrs Doble: Yes.

Mr Abel: What percent of your income goes towards rent?

Mrs Doble: I do not think that is any of your affair. I have got my own financial affairs to look after and I do it, but I do not see why I—

Mr Abel: I was not trying to intrude. My point is, being on a fixed income and having to pay a large amount of your income on rent, how does that affect you personally?

Mrs Doble: I still do not think that is any of your concern. I have my own finances. How do you manage?

Mr Abel: If I had to pay high rents, I think I would find it very difficult. Thank you.

Mrs Doble: There you are.

Mr Grandmaître: Mrs Doble, I know you people have been going through some very difficult times for the last two, three, maybe four years, and I was very surprised at some of your remarks, Margaret, saying that $1.3 billion was a lot of money. I wonder where your government is going to get the money to provide us with 30,000 rental units in the next three, four or five years. But going to back to you, Mrs Doble, how many people or how many couples in your building are retired, 20%, 30%?

Mrs Doble: I would say more like 50% or 60%. They are mostly widows or widowers like myself. I am a widow. Now we are beginning to get younger people in. Some of the older ones have been there since the place was built. Of course some of them get ill and some die or they move into retirement homes. It is beginning to affect even the younger people because they are working and they are trying to get their food and they cannot go to work unless they look half decent. There are cleaning bills just the same as when I was working. It is very tough on them, and that is why I do not think it is quite fair.

1430

Mr Grandmaître: Your last rent increase was close to 20% or more?

Mrs Doble: Yes.

Mr Grandmaître: What was it before, let's say in 1988? Was it between 4% and 5%? What was the average before?

Mrs Doble: I think it was—no, it was not 5.4%.

Ms Poole: Was it 4.7%?

Mrs Doble: Yes, something like that, Ms Poole, I believe.

Mr Grandmaître: But last year you were hit with—

Mrs Doble: Last year it was a little more, and then this year it was a little more again.

Mr Grandmaître: But 50% of your tenants are retired or very close to it?

Mrs Doble: Yes, perhaps even a little more, Mr Grandmaître. I see them coming and going, but a lot of them are, and a lot of them are not too healthy, you know. They have all lived there so many years.

Mr Mahoney: Just similar to the question I put to the last group, which was representing landlords, the costs that are passed on as a result of public policy decisions in areas like utilities or taxes, whether they are passed on to a home owner or a landlord and subsequently to the tenant, do you have any thoughts on some of those costs perhaps being paid directly by tenants, as opposed to through the system where the landlord simply absorbs it? Really, the problem I am getting at is that if you get double-digit increases—we have got projected 44% increases in Hydro, we have seen double-digit increases in local taxes—it is not something that you or the landlord can control or have any direct input in. How do you deal with that in the overall situation in this bill?

Mrs Doble: In our complex we pay our own hydro, of course, and then if the landlord decides that if the hydro goes up, which it certainly will, and he decides, "We'll put it on to the rent," then we are paying double hydro. The same thing with everything else. If you have a house, you do not go to your neighbour and say: "My hydro bill went up. Here's half of it." It is not fair. He has got the money, there are no two ways about it. In our case, he has had that 2% there for quite a few years, and we do not know where anything has gone. We are never told anything except that the rent goes up.

The Vice-Chair: Thank you very much. We appreciate your presentation today.

CLINIQUE JURIDIQUE STORMONT, DUNDAS AND GLENGARRY LEGAL CLINIC

The Vice-Chair: The next presentation will be made by the Stormont, Dundas and Glengarry Legal Clinic, Etienne Saint-Aubin.

At this point I would like to acknowledge that we are pleased that the Minister of Housing has joined us and she is in the audience. Good afternoon, Minister.

Hon Ms Gigantes: Good afternoon.

Mr Mahoney: Invite her up, Mr Chairman. The water is nice and warm.

The Vice-Chair: Actually, we had already made that offer.

Ms Poole: She is shy.

Mr Mahoney: I heard that. She has great confidence in her committee members.

Ms Poole: Or something.

Mr Mahoney: Or something.

The Vice-Chair: Good afternoon. The committee has allocated you 15 minutes. I will keep very close track of that. You make your presentation. The members would like you to reserve some of your time for questions and answers.

Mr Saint-Aubin: We appreciate the opportunity to have a few words to say about the legislation. We appeared before the committee when it considered earlier this year the temporary legislation, and obviously, because of the work that the legal clinic does in our community, this legislation is pretty well the most important that we have to deal with. We have summarized what it is we have to say today in the written material we have distributed. In essence, we support the legislation and feel that the committee and the

government have done an excellent job at drafting legislation which in our view meets what we feel should be the main objectives of the reform in this area.

J'ai avec moi ma collègue M^me^ Bernadette Clément, qui est également avocate à la clinique juridique et qui apportera une autre dimension que nous trouvons importante pour le comité.

The four objectives that we feel should be uppermost in the minds of those who are reforming this legislation are: making the law simpler and more easily used; providing greater certainty to tenants and protection from increases substantially higher than the rate of inflation; and, very important, ensuring that landlords find it worth while to stay in the business of providing rental housing. We made that point when we appeared before the committee last February. We consider that there is a mutual interest in terms of landlords providing the housing. They will continue to do so if they find it worth while. Last, we have felt, and we were pleased to see that the legislation deals with this area, that a reform should more effectively promote quality in housing by providing incentives for adhering to property standards—incentives both positive and negative; in other words, incentives both to create penalties, but also to make some sort of positive reinforcement. On the whole, we feel the legislation has met these objectives.

Dealing with the first one in particular, making the law easier to understand and easier to use, we recognize that the moment one embarks on an attempt to effect controls but also be fair to various parties, it is going to be very difficult to come up with legislation which is perhaps two or three lines of law. It is certainly going to be a difficult task to achieve, but in this area we do repeat that greater care has to be taken administratively, and in that connection I would defer to my colleague, because I do think that in this area our province has a lot to learn from the province of Quebec.

Ms Clement: My name is Bernadette Clement and I am a lawyer with the legal clinic in Cornwall. My comments will address the issues of administrative implementation of the legislation, and the understanding that the public will have of the legislation.

I think it is sometimes useful to compare the system we are trying to create here in Ontario to existing systems in other provinces. I am referring specifically to the system in Quebec. I have a background in civil law and some personal experience with renting accommodation in Quebec, specifically Montreal, and I think that the agency they have there, la Régie du logement, has gone a long way towards making the law accessible to tenants in terms of their understanding of what their rights are.

The Régie in Quebec is seen as an agency where people, including tenants, can go to find out what their rights are. For example, the Régie has a standard lease on which landlords must indicate the previous rent that was charged for the apartment, so tenants know right away what increase there has been and they can monitor it more closely and can question the landlord even before they move into the apartment, without the necessity of going to have research done at the rent registry to find out what the past rent was.

Many of the questions we get at the legal clinic indicate to us that there is a problem with the understanding of the law. We get a lot of questions that go to very basic elements of the law that show that the public does not have a clear understanding of what their rights are. This just underlines the fact that a lot of effort has to be put into the education and into making the law simpler and easier to understand for people.

The rent review services should be seen as a place that gives out comprehensive information and where tenants can go to find out what their rights are under the various pieces of legislation. We would hope that along with the new legislation comes a greater commitment to educating the public and simplifying the law.

1440

Je crois que nous pouvons nous inspirer du système au Québec lorsque nous essayons de créer un nouveau système ici en Ontario. En ce qui a trait à l'accès à l'information, nous pouvons beaucoup apprendre de la province de Québec. Les locataires au Québec ont beaucoup recours à la Régie du logement et ont beaucoup d'informations de cette agence-là. Les propriétaires indiquent directement sur le bail quel était le loyer demandé avant, donc le locataire est directement au courant de toute augmentation.

Nous espérons que, avec la nouvelle législation, il y aura un effort accru en ce qui concerne l'éducation du public et la simplification de la législation.

Mr Saint-Aubin: Just before leaving this point of making the system simpler, I must make the comment that it is hoped that the rent officers and the apparatus which is to be adapted to the new legislation will ensure that it does not get bogged down in unnecessary—I use the term "legalistic fussiness." It is a growing trend among many administrative bodies to feel that they have to render judgements along the lines of Supreme Court of Canada judgements. What they are doing in this way is harming the public confidence in the ability of these bodies to give speedy answers to problems that people face. I recognize this is not the particular task of the committee, but I think the real proof of the success of the legislation will be in the hands of those who must administer it.

Moving perhaps to other areas, in terms of the protection of tenants, it will obviously be very necessary to more adequately explain the issue of maximum rent and how it relates to the cap of 9%. I think there is going to naturally be great surprise in some instances. We recognize and respect the concept of maximum rent, but this is going to be a sore point in many instances.

I think the objective of ensuring that being involved in this business is worth while has been met. I acknowledge that certainly that will not necessarily be the view of all landlords. Necessarily, one can understand that when there is some limitation on what one can make in this field, there will be naturally a certain displeasure there, but I think the legislation has done what it has to do in this area.

As a similar comment with respect to the question of providing incentives to adhere to property standards, although we would urge that the provision in clause 15(3)(a)—there is a provision that prevents the recovering

of capital expenditures for those that became necessary as a result of neglect in maintaining a residential complex. We think that all that provision will do is engender numerous disputes as to whether a repair is caused by neglect or whether it is ordinary maintenance. It is clearly going to be such a fine line to discern as to already take up a good chunk of the case load of a hearing officer. In the final analysis, if the objective is to make sure these premises are maintained and are of high quality, or of at least adequate quality, there really is not any point in that provision when you really analyse it.

The other issue of the rent registry is that we perhaps do not fully understand the rationale for excluding smaller units, because that is where the problem is. The problem is not so much with the larger premises. The problem in terms of finding out just what the basis for a rent increase is—if cost is the issue, I think it would be legitimate to recover some costs through the charging of some modest fee to have access to that information.

We also feel that municipalities should be required to file the orders which they issue so that there is a closer intertwining of the efforts at upgrading the quality of housing.

We recommend as well a provision that is certainly in effect in Quebec, again, in this fundamental issue of knowing what the previous rent is, that this form part of the procedure of renting an apartment. I repeat that a lot of these simple, basic things are now in the public domain. It is now part of life. Even the least-informed person in Quebec knows this. That is not the case here. Rent review remains a mystery for most people here. Again, in conclusion, the success of this effort will be what administratively is done to put it right. Those are our submissions.

Mr Winninger: I would like to thank you first for your very constructive recommendations. Like Bernadette, I studied law in Quebec and I seem to remember they had a system there, similar to what is proposed in this bill, of pre-hearings. I wonder if you can share with us your experience as to whether those pre-hearings tend to cut down on the amount of time and expense incurred in the rent review system.

Ms Clément: I did not have very much direct contact with the pre-hearings. I know just from keeping in contact with some people who are still in Quebec and living in Quebec that, yes, it does cut down and it is very helpful. People feel they can get a solution much quicker. They do not sit back and say, "Well, there's no way we are going to deal with this because we won't have a solution before 8, 9, 10 months down the line." So, yes.

Ms Poole: Thank you very much for your presentation. I remember your presentation quite clearly under the Bill 4 proceedings and it was, I think, probably one of the most balanced and sensitive we had before our committee, recognizing the difficulties from both sides in this issue.

I would like to ask you about the property standards issue, which you also covered when you were before us last time. At that time, if I recall correctly, you talked about the carrot-and-stick approach and you said the problem with the RRRA was that it was all stick and very little carrot. While I welcome the government's effort to look at the maintenance issue in Bill 121, I read the provisions in here in sections 38, 39 and the other maintenance provisions as being all stick, stick, stick, and no carrot whatsoever. Many landlords have said they are in absolute fear that legitimate work which they are in the process of and goes into non-compliance for extenuating circumstances such as a construction strike, seasonal things, an underground parking garage that takes much longer—in those instances they will be penalized. Have you analysed the sections in here relating to work orders and rent penalties, and do you have any comments on them?

Mr Saint-Aubin: I would limit our comments to the removal of the provision that will, I think, cause complications to parties when they are trying to put things right. I think the cap and being able to pass through most of the costs, at least to some reasonable extent, does adequately address the carrot side of things.

Mr Tilson: Mr Chair, I do not have any questions, but I do wish to put a motion on the floor as a result of the comments made by these two speakers.

The Vice-Chair: Mr Tilson moves that the clerk of this committee make arrangements for a presentation to be made on the Quebec process of rent control.

Mr Tilson: That is my motion, Mr Chair, if I could speak to that motion.

The Vice-Chair: Do you have questions for the presenter, Mr Tilson?

Mr Tilson: No questions.

The Vice-Chair: We will deal with your motion, then, in a moment. Thank you very much for making your presentation today. Mr Tilson has made a motion and before considering it I think we should consider our time, whether we want to back the presenters up at this moment, whether we should deal with it at the conclusion of hearings or deal with it right now.

1450

Mr Tilson: My comments are very brief, Mr Chair, as to why I am making the motion. We heard yesterday a presentation as to the process in British Columbia. Obviously the last two speakers have put forward some very good, sound reasons—the committee would be irresponsible to report to the Legislature without hearing the process in Quebec, the very simple reason of trying to avoid a registry system. The idea of having the last rent listed on a lease or documentation would perhaps cut down if not completely eliminate the need for a registration system, which will indeed prove to be very costly to the taxpayers of this province.

Obviously these two speakers appeared to be sold on the process, at least in Quebec, and we should hear more about the Quebec experience.

Mr Mammoliti: I just wanted to ask Mr Tilson when he expects us to do all of this. Tomorrow is our last day. I understand the schedule ends tomorrow and we stop the hearings. I would like to know when you plan on doing this? Is it midnight tonight? Is it 3 o'clock in the morning? Tell me, I certainly would like to know. It was not reflected in his motion and it is information I would like.

Mr Abel: Yes, along with my colleague, I have some concerns about the time element, but there is certainly a lot of merit to Mr Tilson's request. I think we would all benefit by having somebody of that background come and speak to this committee. I would support the motion provided there is some kind of time frame or guidelines set out so we all understand in which direction we are going.

Ms Poole: I too support Mr Tilson's motion in principle. I do see a time constraint and perhaps when we go into the first week of clause-by-clause we could consider it then. The second thing I bring to the committee's attention is that during the Bill 4 hearings, when we had these presenters before us, they gave us some written information about the Quebec system which is on file with the clerk. If we could ask her to file that with us when we get back to Toronto that would be also helpful.

The Vice-Chair: It appears to me that there is general agreement on the committee that we would like to hear someone expert on the Quebec system. May I suggest to the committee that the subcommittee attempt to schedule that person at the earliest possible date, whether tomorrow or some time in the future.

Mr Tilson: Just to respond to some of the questions that were asked, specifically Mr Mammoliti's, I do not intend to suggest we interrupt the presentations made to this committee, but this type of presentation, I feel, could be made at any time, certainly prior to the clause-by-clause, perhaps immediately prior to the clause-by-clause discussion. It might also assist committee members in considering whether there should be any amendments to the legislation. I do not think the scheduling we have put forward should be interrupted, and this presentation could be made at a later date.

The Vice-Chair: Mr Tilson has made a motion that the committee invite a witness to testify regarding the Quebec rent control or review system.

Motion agreed to.

Ms Poole: I would like to make a brief request of the Ministry of Housing. The presenter mentioned that in Quebec they have a standard lease which contains the rent the previous tenant was charged. In my estimation this might fall under the Landlord and Tenant Act. I just wondered if the ministry could confirm whether this would be within the scope of Bill 121 or whether it would have to be an amendment to the Landlord and Tenant Act?

Ms Parrish: Of course, I would have to look into that further, but my view is that it would require an amendment to the Landlord and Tenant Act because, unlike Quebec, where rent review and landlord and tenant relationships are governed by one statute, in Ontario they are separated because of the court jurisdiction issue. So it would be a different statute in my view. I will look into that further. In Quebec people are actually required to have leases, whereas in Ontario they are not, and many people in fact have month-to-month tenancies in Ontario. Again, it is a different system, but we can look into that.

LEXINGTON TENANTS ASSOCIATION

The Vice-Chair: The next presentation will be made by the Lexington Tenants Association, Mr Hooper. You have 15 minutes to make your presentation. I think you have been here for a few minutes and you have seen the way the committee operates. I will let you introduce yourself and begin your presentation.

Mr Hooper: My name is Ken Hooper and I am the chairman of the Lexington Tenants Association, which is a tenants' association of a relatively old apartment building built in 1960 at 507 Riverdale Avenue.

The purpose of this submission is to correct the present inequitable state of the law where some tenants who are paying market rents are denied the protection of the law because the landlord is a government. I give the Lexington as an example of this.

This apartment building was purchased by the city of Ottawa non-profit housing corporation in July 1989. As a result of this change of landlord, the tenants lost the protection of the Residential Rent Regulation Act and the Landlord and Tenant Act.

Subsequently, tenants have been charged a 6% annual rent increase in 1990 when the Ontario guideline was 4.6% and a 6% annual increase in 1991 when the guideline was 5.4%.

Furthermore, some tenants were charged more than one increase in a 12-month period. Thus, tenants paying market rents for units which are by definition profitable to the landlord and are not subsidized by the taxpayer are paying annual increases in excess of the government's own guideline.

According to the compendium on rent control sent to me by the government of Ontario, Bill 121 will continue the above inequity. I refer to page 1, paragraph 5, in the compendium.

Therefore, the present brief proposes that equity be restored through the following amendment to Bill 121:

"That in the case of units attracting market rents in non-profit housing corporations financially supported by federal, provincial or municipal governments the landlord may only increase the rent once every 12 months and the increase in rent will be limited to the guideline increase."

That is it.

Mr Grandmaître: Can you brief this committee or explain to us how your people were charged or were asked for more than one increase in a 12-month period? Were these tenants under a lease?

Mr Hooper: Some were, some may not have been. The point is that about two years ago when the building was taken over all the tenants had leases. The building was taken over in July. Some tenants' leases had expired. They had taken out new leases and so they had in fact paid and they had paid a rent increase in the year for the period immediately before the building was taken over. Then when the building was taken over—CityLiving runs to a different set of rules. Come January, CityLiving applies its increases, 6%, and some people got the increase in March, but still, within the 12-month period they had had two rent increases. Then the next year, 1991, some people who had

paid an increase in the previous March were now due for an increase in January, less than a 12-month period, so they had paid two rent increases in less than the 12-month period.

1500

Mr Grandmaître: In other words, when the city of Ottawa, the non-profit people, took over or bought the building, no new leases were demanded by your tenants or your group, you just went along with the existing lease?

Mr Hooper: We did get new leases, but the curious thing about our new leases is that they are only made out for one month.

Mr Grandmaître: That is what I am—okay, thank you.

Mr Mahoney: Generally, in the non-profit sector—as a member of the board of Peel non-profit for nine years—we made our decisions for rent increases based on cost pass-through to the tenants. We would calculate the costs to the corporation and pass them along. This bill treats the private sector in a sense where they are saying there is no relationship to cost pass-through. You can apply for 3% above the guideline for extraordinary costs, as an example, yet they give no such requirement in the non-profit field. So in essence it appears it is a double standard for government-operated facilities and a hammer being brought down on private-sector-operated facilities.

I just wonder, if your corporation operates on the basis of cost pass-through, does it justify that cost pass-through to you? Do you know what the costs are when your rent is increased, and do you think it is fair that there be a double standard? Who is on your board?

Mr Hooper: I have tried to find out what the formula is, specifically what the formula is, not just to be told in a rather paternalistic fashion, "The government of Ontario consults appraisers who base your rent increase on what the appraisers consider to be the market rent."

Mr Tilson: Obviously, non-profit housing corporations such as the one you are involved in are legally a separate unit. I do not know how long you have been on this particular board, but can you tell us what influence the Ministry of Housing or its representatives have in making decisions with respect to your building?

Mr Hooper: It is difficult for me to say, actually. I know that for rent review, as far as the Ontario government at 10 Rideau Street in Ottawa is concerned, when we were taken over by CityLiving, we ceased to be of any interest to them.

Mr Tilson: That is what I had heard, and that was the purpose of my question.

Mr Hooper: Yes, we ceased to be. However, recently, as a result of my writing a letter to the minister, I have received a phone call from them.

Mr Tilson: What did they say?

Mr Hooper: It was pertaining to the business of trying to find out the formula that is used to decide on our rent increase. But I have not had any luck, not specifically; I am just told, "Well, it's appraised and that's the opinion of the people who appraise."

Mr Tilson: I have a feeling after your appearance today the minister will be co-operating, hopefully. Those are my questions.

Mr Mammoliti: I just want to ask a quick question, then I am going to hand it over to my colleague. Have you been living in the building? Have you noticed a drastic change, whether it is positive or negative, when we talk about maintenance?

Mr Hooper: That is a very complex question, surprisingly, because the maintenance situation has changed more or less year by year. If we go back to the period before CityLiving took over, the situation changed yearly as the building changed hands. The building has been flipped about five times in five years, and on each occasion pandemonium reigned. As the new owners took over, they either did things or did not do things.

Mr Mammoliti: Has response time been better since the city has taken it over, as far as maintenance calls are concerned?

Mr Hooper: In some respects better, but it always takes a lot longer. We do not have the situation where the owner of the building was informed of the death of a tenant whom we could not get to because the apartment was locked from the inside and the owner's keys were not available. We do not get the owners telling us that he is completely indifferent to the death of the tenant, it means nothing to him, and he does not really care wither it takes an hour or a day to get to the body.

Mr Winninger: Thank you for your submission. I would like to explore with you a few of the differences between private housing and social housing. Of course, there are many more forms of social housing than non-profit like you live in, in the co-op and publicly owned housing. There are many reasons why rents, for example, might rise twice in one year if you are dealing with the individual rent payer rather than the unit itself, because if the rent payer's income goes up, then he needs less assistance on his housing.

Mr Hooper: Yes, but that does not apply to the tenants I am representing here. The ones I am representing are the ones who are paying market rents.

Mr Winninger: Okay, let's look at the market rents, then, for a moment. Given that there is a waiting list for social housing right now and that people at the top end of the scale who are paying market rents have the choice to remain where they are and be exempted from rent controls or to move to a rent-controlled building, why then would we want to impose the same restrictions on residents of social housing that we do in private housing?

The other thing I would point out is that some of those tenants, who may, for example, be on family benefits, would have received a 10% increase in the housing component of their family benefits to cover just this kind of increase that you have referred to. Other people may of course work, and their income for housing may not have gone up as much. Then they would have to decide whether they would want to move out or not. Maybe you have some response to that?

Mr Hooper: Well, yes. My response is that I am only referring here to those tenants who were in the building when it was taken over and therefore are paying market rent. I know nothing about the formula that CityLiving uses in order to decide on the rents for those other persons who are being subsidized.

Mr Winninger: Mr Mahoney said it comes down to passing through the costs of running the building, and if they do not pass through the costs, where is the money going to come from?

Mr Hooper: Apparently it is going to come from us. The tenants who are not subsidized are going to be subsidizing the subsidized tenants.

Mr Winninger: Are we out of time?

The Vice-Chair: Unfortunately, the time for your caucus has expired. Thank you, Mr Hooper, for presenting to us today.

1510

OTTAWA REGION LANDLORDS' ASSOCIATION

The Vice-Chair: Our next presentation will come from the Ottawa Region Landlords' Association, Elat Lerner. Good afternoon, welcome to the committee. You have 15 minutes to make your presentation. I would appreciate it if you would leave some time for the members to have a discussion with you. If you would identify yourselves for the purposes of Hansard, that would be appreciated.

Ms Lerner: I am Elat Lerner. I am the president of the Ottawa Region Landlords' Association. With me today is Angela Del Giudice. I guess between the two of us we represent a major force in the Ottawa Region Landlords' Association.

We are a volunteer organization. We were founded in 1987. Unlike tenant associations, we are not funded by taxpayers' money. Both of us here today are taking time off work at our own expense to appear before this committee. At the moment we have over 300 members in our association. We are growing fast. Most of our members are very, very small landlords.

There are about 42,000 landlords in Ottawa-Carleton. Some 40,000 of those are very small landlords. They own one or two units. There are only about 2,000 landlords that own three or more units. Despite what you might hear, we are not well financed, and we are not well organized, obviously. Most of those 40,000 people are working people and retired people. They own single homes that they rent out, garden homes or condominium apartments.

We have been accused of buying properties at inflated prices and passing on rent increases to tenants. Let me give you some facts about small landlords. In Ottawa-Carleton today, if you are buying a unit to rent out, if you bought a condo apartment, the starting price is about $70,000, town homes start at about $90,000 and single homes go for about $140,000. You might say that they are inflated prices, but it is really not up to us. We are competing with home owners out there, and with home builders who demand that kind of price for their property. If we want to buy property, that is what we have to pay for it.

I would like to just go through a little mathematical exercise with the people here today. Let's say I had $70,000 and that I worked and I saved and I want to make sure that my future is protected. I have $70,000. I can take the $70,000, put it in the bank, GIC, get maybe $7,000 a year in interest. It is totally risk-free. It is totally hassle-free. All I have to do is make one trip to the bank, put the money there, and just sit back and get $7,000 a year. On the other hand, I could take this money and buy a condominium apartment. That is probably the most modest unit I can buy today—$70,000 is what it would cost me—and rent it out. When I do that I immediately let myself in for a lot of hassle.

Just to give you a few examples of what a typical landlord goes through. You have to rent the unit, so you have to show it to prospective tenants. I live in Kanata. My property is in Gloucester. I have to run back and forth many times until the unit is rented. I set up appointments with tenants. Many of them do not show up for the appointments and I have run back and forth for nothing.

People are calling me at all hours. I work during the day. I have a regular job. In the evenings, instead of spending time with my family, I answer the phone for all those people who are calling for my ad in the paper. This is happening evenings and weekends, when I really would like to spend time with my two-year-old son. But I have to do it because I am a landlord.

Then, when the unit is finally rented, I have to collect the rent, I have to go and put it in the bank. Every once in a while there is an NSF cheque. I have to contact the tenant, go through the whole story of getting another cheque. I have to appease my disgruntled neighbours, because sometimes the tenants have wild parties and the neighbours are a little bit upset about it. So I have to spend my time trying to make everybody happy.

There are repairs that need to be done to the apartment. Sometimes those repairs are just ongoing repairs—the fridge, something happens to it, and you have to call the repairman. At other times it is deliberate damage caused by tenants. When there is a lot of deliberate damage caused by tenants, obviously the tenant usually will not want to pay for it. You have to go to court. As a small landlord you cannot afford a lawyer, so you have to take time off work again and go to court and try and prove your case. Some tenants break their lease. You find out that your tenant has taken off on you in the middle of the night, and here you are—you have to rent the unit again. That is just a little taste of what kind of hassles are involved in being a small landlord.

Let me tell you about the risk of being a landlord. Tenants will tell you that there is no risk; it is just money in your pocket. There are acts of God, there are fires, floods, whatever, and then there is the odd tenant who does not pay his rent. You still have expenses, you still have to pay everybody else, but your tenant has not paid rent. Sometimes the unit is vacant because you cannot rent it for one reason or another. You cannot collect rent. Sometimes the tenant damages the unit and you have to repair it at your own cost. Sometimes, when you are finally sick and tired of the whole thing and you just want to sell it, you

can sell it for a loss. You can sell it for less money than what you paid for it originally. This is just a little taste of what it is like to be a small landlord.

Let me tell you about the costs that are involved in this purchase of a $70,000 unit condominium that we are just now renting out. A typical condo fee is about $1,800 a year, taxes about $1,200 a year, painting the unit and repairing the odd things that go wrong is $500 a year. The landlord's time for doing all those chores is provided free of charge. No cost to that—that is free. Total cost per year is $3,500 for this typical modest unit.

1520

We have to rent this unit out and we have to set the rent for it. What is affordable rent for that unit? The average rent in Ottawa/Carleton, according to the latest statistics I am aware of, is $580 per month. This is for all types of units, not just your modest little condo apartment that we just bought for $70,000. This is the average rent in this region. The tenants tell us that is too high, $580 is way too high. So let us provide it at an affordable rent of $500. Again, I am sure the tenants are going to tell you that is way too high.

Let us say we do that, $500; $500 is $6,000 per year in income from rent. A little arithmetic here—income $6,000, expenses that I just explained to you, $3,500. What is left in your pocket is $2,500. You could have taken your $70,000, put it in the bank, risk- and hassle-free, and gotten $7,000. But, no, you invested in real estate and you rent it out and you get $2,500 per year. Again, if you put it in the bank, there would have been no risk, there would have been no midnight calls, nobody would call you on Sunday, and you could spend time with your little son.

So, everybody asks me, "Why do people invest, why do people become landlords?" We find that landlords belong mainly to three groups of people. One group of people is new immigrants to this country, without proper skills or language, and they think that is the best thing to do with their money. A second group of people, a large one, is women. Women are used to working very hard for nothing. We are conditioned to do that.

Ms Harrington: I agree.

Ms Lerner: There is also a third group of people—and those were the many people who were lured in by all kinds of glossy promotions of tax shelters. They were told they were doing the right thing. They were taken in by that, and the government is supporting that. They like people to buy those tax shelters.

As a matter of fact, I would say that the NDP government of this province is—

The Vice-Chair: You have three minutes left.

Ms Lerner: Okay. The NDP government probably would like to promote this too. How else would you explain the fact that this coming legislation has exempted only one group of buildings, and those are the new buildings. They are not under rent control for five years. Why is that? Landlords that are already in it, many of them had no idea what they were getting into, and they are now stuck holding the bag.

In closing, I would just like to say that this issue concerns all Ontarians. It concerns landlords, it concerns tenants, and it concerns mostly taxpayers, because they will be the ones holding the bag when all small landlords decide not to be landlords any more. There are 60,000 units out there that are owned by little guys, and those units are disappearing off the market at an alarming rate. They will have to be taken up by government-provided accommodations—and that is going to cost the taxpayers through the nose. I guess I will open it up for questions.

Mr Tilson: I listened to you tell us how your organization is increasing, obviously to protect yourselves from the complications of rent review and rent control. People are hiring lawyers just to understand the forms, let alone the need for accountants. It is mind-boggling.

Since you do represent the small landlord, I would like you to give me your comments very briefly as to the need to register the small unit. As I understand it, even one unit, a tenant who rents a house, for example, or a basement apartment, could insist that a particular unit be registered.

Ms Lerner: I guess we have no problem with the philosophy. The only concern we have is for the taxpayers. Obviously it is going to cost a lot of money to the taxpayers, and we do not like to see that.

Mr Perruzza: There are a few issues that I wanted to explore with you. I would like to thank you, first of all, for the lesson in simple mathematics. If we were to take your rather simple mathematical formula, it would cost about $1,000 a month for someone to rent out your $70,000 condominium unit, and that would probably carry a mortgage of about $90,000 a year. I would not need to rent my condominium unit from you, madam. With that kind of money, I would go out and buy my own.

Mr Tilson: Or get a co-op.

Ms Poole: Virtually every presenter who has come before us has commented on the double guideline and has said it is needlessly confusing. This is whether it is a tenant or landlord who has made his presentation. They have said the operating costs for a small landlord and a large landlord are not significantly different, that it would really be a difference between, say, old and new buildings that would be more significant. Can you make any comment on that? Do you like this idea of a double guideline, where small landlords get one, and anything over seven units—which many people would argue are still small landlords—they get a smaller guideline?

Ms Lerner: Really what is happening here is not that the smaller landlords have been awarded a larger amount, but the small landlords are being awarded the same amount that they were awarded before, and the large landlords are being offered about 20% less. As a small landlord, are you asking me, am I just very pleased with the idea that the large landlord is going to be socked even more than we are? The answer is no, it does not make any difference to us.

The Vice-Chair: The time, unfortunately, has expired. We appreciate your presentation today.

HOUSING HELP

The Vice-Chair: The next presentation will be made from the Housing Help/Aide-Logement, Lisa Jamieson and Robert Garrod. Good afternoon. The committee has allocated 15 minutes for your presentation. I believe you have been here for a few minutes, so you maybe know the procedures we will follow.

Mr Garrod: Thank you, Mr Chairman, for giving us the opportunity to come before you again. We were able to respond to the green paper, and in our opinion the legislation is a considerable improvement over the old one.

Housing Help is a community-based information assistance agency that tries to help people who are suffering considerable housing distress, principally in the middle of the city. It also takes on an advocacy position in order to help these people.

We deal with about 20,000 contacts a year in this city and about 900 of them are really housing-crisis cases, which need very strong individual attention. There are 81% of our clients who live in market rental housing who have an affordability problem. About half of those, at least, are paying more than half their income in rent. So we are really dealing with tenants at this level. The rent legislation is a very important concern for them, and for us in trying to assist them.

1530

When we wrote a brief on this before, we felt that the legislation should go through a number of tests. They were: simplicity, user friendliness, responsiveness, efficiency, fairness and accountability. We are not at all sure that the legislation in fact meets our test on these accounts.

I am going to ask Lisa to respond to these items very briefly one by one. I think our staff have put together a very excellent brief on this subject and I do commend it to you.

Ms Jamieson: The first point, then, is simplicity. Just as Dianne was saying, our major concern with this piece of legislation is that it is not simple, and the double guidelines are one of the major reasons. Another major reason is the differences in carry-forward between the different size of buildings. Third, there are all of these regulations still outstanding that need to be presented and we need to be assured that those, as well, would be simple or simpler than what the legislation is indicating they might be.

Simplicity and user friendliness go quite well together, actually, and because it is not simple we do not think it is going to be terribly user-friendly. First of all, we are afraid that tenants are going to be somewhat at a disadvantage because of the complexity. They are going to require assistance to get through this and they are going to, therefore, require some kind of fund to be able to understand the legislation or services that are not at their disposal, or at least not as available as to landlords who could afford it better.

We are concerned about the potential of user fees being set. There is a provision in the legislation to prescribe user fees. Again, this is not going to make the system user-friendly. It is going to make it inaccessible.

In terms of the regulations, tenants and landlord groups need to be consulted to provide input to whatever forms are being established, whatever kind of guidelines are being established, and there need to be comprehensive public education campaigns that use a variety of languages and mediums in order to get at the whole of the Ontario population. That needs to be done by the province in order to ensure that people actually understand what this is all about.

As well, there are going to be additional resources necessary at rent review services. Right now, we can phone for days on end to the one line at rent review services and not be able to get through. If we are having a new system and whole new rules to follow and more registered rents and everything else, we are going to have to make sure that we can have that system accessible to people.

In terms of responsiveness, Housing Help indicated in its original document that we needed a system that was responsive to both landlords and tenants. I think the legislation indicates that, yes, capital expenditures for landlords are being well considered. It is in the annual guideline and then they are able to go for increases above the guideline. Tenants, on the other hand, are being considered in terms of claiming rent rebates for illegally charged rents or for a decrease in services, etc.

Although there seems to be some attention to tenants' concerns, I still think that there are some things missing. For instance, appealing the landlord's application for increases above the guideline still places the burden of proof on tenants to show neglect or to show that the replacement of whatever it may be is necessary. Landlords can apply for whole building reviews but tenants are left to individually fend for themselves, basically. So if there is an illegal rent, they have to fill out the form. Although the rent officer might add other people's names to the form, it is still very individualistic that the tenants are left to fend for themselves. So what we are saying in terms of responsiveness there is that we need to have a more proactive system which picks up on illegal rents. Things like that I can discuss a bit more in detail, because we have a situation to tell you about.

Efficiency is another item that needs to be a part of this rent control system. What we mean there is a system which minimizes bureaucracy and delays. We have a feeling that Bill 121 in the property standards section, sections 34 to 41, is going to be very problematic in terms of the efficiency element. That is because there is nothing clearly stating how municipalities are to go about forwarding work orders. Who in the municipality is going to be responsible? What is the time frame that municipalities are going to have these work orders in to the province? All of these things are unclear, and we do not think this is going to work unless they are clarified.

As well, in terms of efficiency, we do not think that the rent penalty is going to be a particularly strong method of making landlords comply with outstanding property standards orders. A 6% claim that you can have one year is not going to do a lot if the landlord is not willing to do the repairs. What needs to be in the legislation is something which actually ensures that the work gets done. The penalty

might be there but there is still nothing to ensure that the work will get done.

In terms of fairness, we think that Bill 121 is not totally fair to tenants, because capital expenditures are being paid for twice. It is relying totally on a cost pass-through system to tenants to pay for capital expenditures. We do not think that that is a fair system, and I can speak to that again in a little more detail later.

Accountability: We are saying that the rent control system needs to be accountable to the public and to its users. From our review of the system, we do not think that a single level of hearing system is going to be terribly accountable. There is no level for appeals on administrative errors and factors such as that, and we think that a second level of hearings is necessary if it is really going to be accountable. As well, the other problem in terms of accountability we see with Bill 121 is that landlords are not being made to be accountable for the 2% of the capital expenditures they are receiving annually and they are still able to go ahead and apply for an increase for capital expenditures without really accounting for what they did with all their 2%s in the years previously.

In terms of specific comments, there are a few things that Housing Help has dealt with a bit more personally that I wanted to emphasize. The maximum rents concept is quite a difficult concept, and we had proposed in our consultation response that we look at getting rid of the maximum rents. It is still in Bill 121, and what we are seeing is that landlords are of course going for the maximum rents. So right now we have seen quite a few tenants who are having increases beyond the guideline because landlords are catching up with their maximum rents.

What we would like to see in Bill 121, if there is not going to be an abolition of maximum rents, is at least a cap so that if landlords are going to catch up with their maximum rents you place a cap on how much they can take at a time. The cap principle seems to be coming out in the capital expenditures. I think it could be also carried over to looking at maximum rent increases.

Second, in terms of increases for capital expenditures, as I said, it is a system that relies totally on a cost pass-through system to tenants and we do not think that is fair. The definition of capital expenditures in itself is unfair because it contemplates rent increases for tenants without considering the common financial structure of rents. What we mean there are the costs of normal maintenance, the provision of replacement reserves, and the cost of modernization and improvement. The first two factors are already a part of the rent. It is only the latter, the modernization and improvement, that should be eligible for increases above the guideline. We are saying that prudent landlords who purchase buildings, when they are contemplating the price, would be deducting whatever costs are necessary to bring the building up to repair.

While depreciated capital expenditures caused by neglect are not eligible for increases above the guideline, we must argue that it is an overwhelming contradiction in this whole section of Bill 121. If a structure has not been maintained to municipal health and safety standards or has been allowed to lose its physical integrity, or if the essential services have not been maintained in a serviceable condition, then one can conclude there has been neglect. Furthermore, if section 15 is maintained in its present form, we feel that it is going to become the burden of the tenant to have to prove this neglect.

1540

What we are recommending is that section 15 be altered, quite radically actually, to limit eligible capital expenditures to those items which are not already included as a part of the rent, which would leave only modernization and necessary improvement work to be covered by increases above the guideline.

The next point we are going to talk about is reduced rent based on decreased operating costs. While we applaud the provisions of Bill 121 which enable tenants to apply for rent reductions based on decreased operating costs, we do not really think it is going to work terribly well. The first reason for that is that the tenants do not have access to the landlords' costs—their figures for their hydro and their taxes, etc.

The second reason for that is that in present economic times it seems pretty unlikely that landlords are going to actually experience a 50% decrease in these costs; so what we are suggesting, first of all, is that landlords need to file with rent review services this section of their costs. They need to file their taxes, their hydro, their heat, and their water for the year, annually. Then what also is needed is that the legislation be changed to reflect a more reasonable number in terms of what the decrease in costs should be before tenants should be eligible to apply for a rent rebate. We are suggesting that that might be 10%; 50% of a decrease in operating costs for these things just does not seem reasonable. The landlords can claim capital expenditures over 2% when they have something but the tenants have to wait until it goes down to 50% on the landlords' costs before they can apply.

The one thing that we wanted to say about illegal rent increases is that we have been very strong in terms of trying to advocate for a system which is proactive for tenants. Just to give you an example of what we see: We had a tenant come in who was considering moving from his unit because his rent was going up and he could not afford what the new rent was going to be. Just as a routine check that our case workers do, they checked into the maximum rent.

The tenant was being charged higher than the maximum rent, so the whole process of making a rent rebate was pursued, but what Housing Help did and what we would like to see the rent review services do in the future is take a proactive stand. We went out to the building and we contacted people door to door and we contacted them in writing as to what their maximum rents really were. It was a 22-unit building. We got 11 contacts. About half of the people there had illegal rents. So we have opened up this process where they have been informed and they are applying for rent rebates. The rebates that are coming to these people hopefully range from somewhere between $50 and there is one that is over $7,000, which is not even going to be able to go through rent review services. He has

to take it to court. He has been living there years paying too high a rent.

We are suggesting very strongly that the rent rebate system needs to be a proactive system.

Finally, the section on compliance with work orders and sending the work orders, as I mentioned, we do not think is going to work terribly well because there is nothing clearly in the legislation which says "This is who has to do it at the municipality; this is when it needs to be done," and so we we are suggesting that these regulations have to be clearly prescribed in the documentation.

Second, I think it has to be considered that municipalities, under this legislation, are going to be under an additional burden in terms of paperwork. There are things they are going to have to do that they did not have to do before. As well, there are municipalities out there that are not even doing any property orders. They might have the municipal bylaws but they are not actually issuing the orders. So in order for this to work, the province needs to make sure that municipalities are actually complying with their own property bylaws and they have to also ensure that the municipalities have the resources to effect the things that are in this legislation.

I think that is probably all I am going to say, so I just want to say thank you. Bill 121 is definitely an improvement over the RRRA, but there still are things that we need to see changed.

The Vice-Chair: Thank you very much for taking the time to appear before us today.

Ms Poole: Any time for questions?

The Vice-Chair: No time for questions. Actually, they had about a minute and a half over.

MINTO TENANTS' ASSOCIATION, PARKWOOD HILLS AND NAVAHO PLACE

The Vice-Chair: The Minto Tenants' Association, Parkwood Hills and Navaho Place, Bob McCormick. You have been allocated 15 minutes by the committee. You can use it as you will, but we always appreciate some time for questions and answers.

Mr McCormick: My name is Bob McCormick and I am speaking on behalf of the Minto Tenants' Association, Parkwood Hills and Navaho Place.

I wish to speak on behalf of the tenants of the roughly 2,600 rental units owned by Minto Developments Inc in Parkwood Hills and Navaho Place in the riding of Ottawa-Rideau. Back in February of this year our association made a presentation to the committee to show our support for Bill 4. Tenants in our community were well satisfied when they learned of its passing, because many would have faced an increase of as much as three times the guideline amount. Bill 4 gives tenants much-needed temporary protection from such large increases; some would have faced an affordability problem and would have strongly disapproved.

Bill 121 allows for a guideline increase each year which will help protect tenants from large increases. Part of this guideline, the capital cost component, sets aside 2% of all rents to be used for repairs as needed. This amount compounds each year, continuing to increase in value. In some years the landlord may do repairs which require the use of this amount. In other years perhaps only some of this amount will be used, or maybe even none at all. The other component of the guideline allows the landlord to recover his operating costs. This arrangement is fair; we agree with it and encourage the enactment of this provision.

We are concerned about the possibility of rent increasing as much as 3% above the guideline. The previously-mentioned capital cost component of 2% has been compounding over the years. A landlord ought to prove that this accumulated amount has already been used for previous capital costs or extraordinary operating increases before being allowed the extra 3%. In some cases an above-the-guideline increase of only 1% or 2% may be all that is justified to cover the extra expenditure. Once the above-the-guideline increase has been approved it continues to remain in the rental amount in succeeding years, even if the extraordinary operating cost decreases or the cost of a particular capital expenditure has been recovered.

Even more troublesome to tenants is the possibility that an additional 3% above-the-guideline increase could be approved for the following year. Once this increase is in the rent, it too will compound, even after the landlord no longer bears the extraordinary costs. We recognize a landlord's right to be able to recover extraordinary expenditures in a reasonable amount of time and to earn a fair profit, but we are aware of the potential of his receiving windfall profits in future years, years in which he might not make large expenditures. The rent review office ought to carefully consider such factors before allowing above-the-guideline increases.

We are fortunate to have a landlord who acts responsibly in carrying out necessary major repairs which ensure a building's structural integrity and the tenants' safety. We are confident that Minto will continue to do so in the future. At the same time we wish to emphasize the importance of affordability and that above-the-guideline increases only be allowed if the landlord can prove he would be in financial difficulty or face bankruptcy without them.

1550

Also in the interest of affordability we recommend that the Bill 4 retroactivity be maintained, as tenants only expected the guideline increase and have budgeted accordingly. An additional increase will lead to disappointment, insecurity, financial difficulty and, in some cases, economic eviction. Many tenants wish to remain in their present units and are willing to pay reasonable rent but do not approve of large increases for one or several years. We could more readily accept above-the-guideline increases if the 2% capital cost component were eliminated, which would in turn reduce the annual guideline. Under these circumstances, however, rent review's workload would be much greater.

We would like to make several other suggestions that will help ensure that we do not encounter any unpleasant surprises. We approve of this bill no longer allowing a landlord to apply for a rent increase due to such factors as changes in interest rates and below-market rents. We support the strengthening of the rent registry, as this will encourage

consistency in the setting of rents and will protect tenants from being charged illegal rents. Tenants in our community are again fortunate to have a landlord such as Minto, for both the actual rent and the maximum legal rent are usually equal. There ought to be an amendment to ensure that they always are in order to protect tenants from an unjustifiable and unexpected increase. When the actual rent charged is less than the maximum legal rent, tenants run the risk of a landlord asking for an increase larger than the guideline.

The other major issue of interest to tenants is maintenance. Here again Minto is to be commended, for, based on what our association has heard, it generally does well in carrying out normal maintenance and minor repairs. A majority of tenants in our community believe that upkeep and service are satisfactory, although a few would like to see more attention to specific cosmetic items.

We support the provisions made in this bill that ensure adequate maintenance will be performed. We anticipate very few incidents of a tenant needing to have a work order issued to Minto, if any at all, for maintenance because of the thorough program our landlord presently follows.

We support this part of the bill which ensures that the units of all Ontario tenants will be acceptably maintained. We will be able to count on continuing good maintenance and will be able to have problems effectively resolved if we encounter any.

We approve of the provision made for the Minister of Housing to appoint a director of rent control, provided that a suitably impartial individual is chosen. The other officers and inspectors ought to be impartial as well. Our association appears to have a good rapport with Minto and is confident that it will continue to. We are in favour of resolving matters without a hearing.

Still, a hearing may in some cases be necessary and we would hope that a conscientious and unbiased individual will preside over it. Perhaps an amendment could be made that would allow a decision of a hearing to be appealed to an equally unbiased individual prior to it being appealed in court. Tenants and tenant associations cannot easily acquire the same legal representation as can landlords.

We at the Minto Tenants' Association, Parkwood Hills and Navaho Place, appreciate your giving us an opportunity to express our opinions of this vitally important bill. We strongly support some of the provisions in it and encourage you to consider amending some of the others so that tenants can look forward to years of affordable and well-maintained housing. We give our full endorsement to the presentation to be made at six o'clock this evening by Mr Dan McIntyre of the Federation of Ottawa-Carleton Tenants' Associations and strongly encourage you to adopt his recommendations.

I thank you, committee members, for your attention and I thank the tenants who came here to show their interest and support.

Ms Harrington: I think, as you have stated, the tenants in Ottawa are indeed fortunate to have some good landlords, hopefully all of them, and also some people here who have done a lot of work and who know what this proposed legislation is all about. We thank you for that. We keep hearing it.

I would like to let you know the situation we are facing. We know that the people of Ontario want regulation in the housing market and that is what we are doing here, but there has been a speculation in the last few years, with land prices increasing so much that it has caused a problem for people, ordinary people like the woman a couple of presenters ahead of you, who were led to believe that this was a guaranteed investment. And certainly that system they bought into was wrong, and in aging apartment complexes across this province, 20 to 30 years old, which need major repairs. We are trying to deal with all of these in a fair and simple way, and that necessity for simplification we keep hearing, and it is very important. Why? Because we want tenants and small landlords to understand it, be able to work with it in order to empower people. That is what our government is all about. So we thank you for your presentation.

Ms Poole: Thank you, Mr McCormick, for your presentation today. You and your tenants' association appear to be very fortunate in your relationship with your particular landlord. You have mentioned five or six places where you approve of Minto's program of carrying out the major necessary repairs, the maintenance, the maximum rent and this type of thing. I was a little puzzled, and maybe it is because my memory is serving me incorrectly from the Bill 4 hearings. I thought at that time that Minto had undergone a major necessary repair program that had been caught under Bill 4, so it would have been in line for increases above the guideline and yet, although you praise your landlord in many instances, here in this brief you say, "above-the-guideline increases only be allowed if the landlord can prove he would be in financial hardship or face bankruptcy without them." So I just wondered if you could resolve the confusion I am facing with that particular issue.

Mr McCormick: I would not expect, in the case of the capital expenditures that Minto had performed, that they actually had to borrow any money to carry out those works. I also suspect that the amount could have been taken out of retained earnings and that the law was set up at that time to, yes, allow Minto to apply for an above-the-guideline increase, but this increase would not have been necessary. It is extra money that Minto could have received and, as I mentioned earlier, tenants in our area were very happy to hear that their rent was going up only 5.4% instead of 17% or 18%. This affected several of the older apartment buildings in our community.

Mr Tilson: The system we have with respect to property standards is that if a municipality has passed a bylaw, it proceeds and issues its work orders or whatever is necessary to get things done and, as you have indicated, Nepean does not have property standards bylaws.

Mr McCormick: I learned later that they do and it applies in our case, in our community. It was a misunderstanding on my part. This is why I did not actually speak that out.

Mr Tilson: That is fine. I guess my point is, is the system that the province of Ontario now has with respect to property standards adequate?

Mr McCormick: For the amount of time that I have been on the association, I have not heard of any cases where tenants had to bring any difficulties to the attention of property standards. I could only speculate that my suggestions would be a good insurance policy for us tenants. I cannot tell you from anything I have heard whether that is sufficient.

The Vice-Chair: Thank you, Mr Tilson, and thank you, Mr McCormick, for coming today.

1600

MINTO DEVELOPMENTS INC

The Vice-Chair: The next presentation will be made by Minto Developments Inc, Guy Godin. Good afternoon and welcome to the committee. You have been allocated 15 minutes which you can use at your discretion, but we always appreciate some time to discuss the presentation with you.

Mr Godin: Thank you, Mr Chairman. Good afternoon. My name is Guy Godin. I am the vice-president of the resident management group at Minto. First of all, I want to set the record straight. Mr McCormick, the previous presenter, is not on Minto's marketing team, but I thank him very much for his kind words about Minto.

Over the past 35 years, Minto has built and continued to own and manage over 10,000 residential rental units in the regional municipality of Ottawa-Carleton. This makes Minto the largest private landlord in the region. As a matter of fact, we still own our first small 10-unit building in Vanier that we built in 1955.

In the past three years we have not built a single residential rental project and have none in the planning stages. Bill 4 and now Bill 121 are clear signals that the NDP government no longer wishes the private sector to satisfy the housing needs of Ontario tenants. As a result, the government is going to have to mount an enormous construction program which can only be financed through massive subsidy programs. This must be considered in the light of the record projected deficits.

The government states that there are presently 44,000 households or families waiting for socially assisted housing. Under the present system of integrating these units among market units, approximately 110,000 units are required. According to the government's own statistics, it will cost Ontario taxpayers an additional $1.32 billion per year to support these units for years and years. As shown in appendix 1, the Ministry of Housing's annual operating expenditure now totals $764 million.

We are founding members of the Fair Rental Policy Organization of Ontario and the Eastern Ontario Landlord Organization, and we fully support their submission to this committee.

We are opposed to the thrust of this legislation. However, we recognize the reality of the NDP majority government and wish to comment on a number of key issues.

First I will comment on the five-year exemption from rent control for new construction. This is too short a period to be much of an incentive for the private industry. A case in point is that Minto's Aventura apartment complex in Nepean, which was occupied in 1983, is still losing money each year even though it was built, and I emphasize this, to modest specifications—no central air-conditioning, no marble lobbies—and the project received an interest-free second mortgage as part of the government program to encourage residential rental housing. That program, by the way, was that 33% of the unit had to be rent-geared-to-income units.

Over the long term, the only way we can recover our losses and achieve a return on the investment is for the rents to produce a profit in future years. This is not an atypical pattern for rental accommodation, and it can hardly be claimed that the tenants have paid for these apartments through their rents. Our only reason for keeping these apartments and sustaining these losses is our faith in the long-term health of the economy and the belief that at some point we will achieve a reasonable return on our equity. This faith and perseverance have, however, been badly eroded as a result of government policies which will make it impossible for landlords to recover their investment and maintain a vibrant business.

An exemption must extend at least for a period to allow the cumulative losses to be recovered.

My second point deals with capping increases for capital repairs. Since the introduction of rent review in 1976, rents have increased by 48% less than the Ontario CPI. There are simply insufficient funds for landlords to pay for major repairs. The proposed system will mean that items such as major garage repairs will have to be spread over many years, resulting in greater costs and inconvenience to both tenants and landlords.

To ensure adequate major maintenance, a cap of at least 5% per year above the statutory guideline increase must be allowed. The proposed two-year carry-forward provision must also be extended to at least three years. However, we fully support the idea that tenants should not pay for luxury renovations and upgrades to existing rental housing.

My third point is on the treatment of capital expenditures completed in 1990. When Bill 4 was passed, the then Minister of Housing, Dave Cooke, promised that landlords who were caught in the moratorium would be treated fairly. As a matter of fact, I attended a private meeting with Minister Cooke and he made that promise right at that time.

In 1990, Minto spent $7 million on necessary repairs under the previous legislation. These were necessary repairs. They were not marble lobbies. Rent increases for these major repairs would have been between 1% and 11.3%. Under Bill 121, two years after we spent the money, the increases will vary from 0% to 6%. How is this fair?

Capital expenditures caught by Bill 4 must be recognized in their entirety, subject to a 15% cap. We have attached, as Appendix 2, two examples of major repairs Minto completed in 1990, and a comparison between the rules that existed at that time—and therefore our expectation for recovery—and the proposed treatment under Bill 121.

The fourth point I would like to address is that of no hearings board for appeals. During the almost five-year regime of the Residential Rent Regulation Act, 1986, we

filed 60 applications for rent review. Of the 60 Ministry of Housing orders received, we appealed 23 cases to the Rent Review Hearings Board, and in every single case the appeal panel overturned the administrator's order, primarily as a result of the administrator's misinterpretation of facts.

1610

These numbers indicate that there has been a very serious problem with the quality and consistency of the orders issued by the administrators. We are concerned that the government is committing a grave injustice by placing tremendous power in the hands of sometimes unqualified, potentially biased individuals, with no recourse for landlords and tenants except on points of law. To ensure fairness, a right to appeal to an independent body on a question of facts must exist.

Reducing the guideline increase: The original guidelines formulas were developed after extensive review and consultation between tenant and landlord representatives. We are not aware of any further serious research or review having taken place to support this reduced guideline increase. Furthermore, we understand that there will be many items classified as operating costs which were previously considered to be capital expenditures. Also, under Bill 121 a landlord is being told that 2% of the reduced statutory guideline is now deemed to be its contribution to major capital expenditures.

The government forgets that since the introduction of rent controls in 1976, rents have increased 48% less than the Ontario CPI, as shown in Appendix 3, attached. How are landlords supposed to properly maintain their buildings if the statutory guideline is reduced by 20% over what was acknowledged by the tenant and landlord committee, known as the RRRA committee, as being fair five years ago, and more items are classified as regular maintenance under Bill 121?

There should be no change in the current formula unless it is based on a sound, serious and correct study which would consider all the proposed changes of the bill as well as the age of buildings. You cannot take things out of context. You have to look at this whole bill, look at the age of buildings, and then come up with the answer.

The rent reduction provision: Bill 121 is drafted in such a way as to require the rent review services staff to look for reasons to reduce rents. The grounds for a rollback include the undefined issue of "inadequate maintenance." Moreover, even when initiated by one disgruntled tenant, an application for rent reduction can be turned into a whole-building review by the decision of the rent officer.

Related to the concern about rent reductions is the unprecedented provision of police powers to inspectors. One must wonder if this provision has been included for the sole purpose of intimidating landlords. As was pointed out to this committee a few minutes ago, there are thousands and thousands of small landlords in this region. We have always been proud of our level of maintenance, but we ask ourselves a few questions, some of which are:

1. How will "adequate maintenance" be defined?

2. How will the level of maintenance be compared between a modest building and a luxury building?

3. How will the ministry's staff be trained?

4. How will the ministry's staff determine wilful damage by tenants versus landlord neglect?

We recommend the following:

1. Amend section 13(7) so that the rent officer "may" consider rather than "shall" consider if a rent reduction is warranted.

2. Penalties for frivolous claims must be provided, because it is too easy to make a claim.

3. "Inadequate maintenance" must be clearly defined.

4. Reduction should apply to the applicant only.

To conclude, it is very apparent that the NDP government is not now, nor has it ever been, interested in having the private sector contribute to the residential rental housing industry. Bill 4, and certainly now Bill 121, confirm this.

It is easy for the Minister of Housing, past or present, to say that Bill 121 is good for tenants, but is this really the case? Is the government capable and willing to accept the fact that the only residential rental builder in the province of Ontario will be the Ministry of Housing? We know that when government builds, it is always more costly than the private sector. The provincial deficit will grow by over $1 billion each year as a result. There will be a steady deterioration in the existing housing stock.

We believe very strongly that the government should abandon its present course of action and instead address the real issue: How do we assist those people who truly cannot afford adequate housing? That is the crux of the issue. We feel the solution is by means of a direct shelter allowance to those in need. This way, everyone in Ontario will benefit. Thank you.

Mr Grandmaître: You are objecting, or you do not feel good about the five-year exemption that would be given to new construction. On the same page, "An exemption must extend at least for a period to allow the cumulative losses to be recovered." What would be that period, given your past experience in the rental business?

Mr Godin: As stated in the brief, we gave an example of one modest building. After eight years we have yet to break even, and this is with an interest-free second mortgage. The minimum has to be well over 10 years.

Mr Tilson: We will now have a new rent police force as a result of this legislation. I would like you to comment on that section as to specifically how this police force, the inspectors, can enter your premises and seize almost anything.

Mr Godin: First of all, the old system had a standards board. I do not see any reason why this system would not continue. I think the standards board was quite appropriate, and it should continue that way. I am not aware of any rent review legislation in Canada—having been involved, somewhat briefly, with the rent review legislation in Quebec—where a police force would go into a landlord's premises and seize things. This is incredible.

Mr Winninger: You mention that Minto spent $7 million on necessary major repairs under the previous legislation and you were expecting between 1% and 11.3% a year on that. You of course would have to acknowledge that given that you can get from zero to 6% over the first two

years after the bill passes, that becomes compounded as an integral part of the rent year after year and that you will be repaid your capital repairs, certainly over the useful life of the repairs. Does that not seem a reasonable way of passing through your costs?

Mr Godin: Sir, does it seem reasonable for somebody to spend money, abide by the rule of the land at that time and the government should decide to change the rules retroactively? Sir, would it be reasonable for you to go down to the Queensway at 100 kilometres an hour and the police would see you going at 100 kilometres an hour, but that is the speed limit today and tomorrow they change the speed limit to 80?

Mr Winninger: Stuart Thom will tell you that the last three bills have been retroactive, so this is nothing new.

The Vice-Chair: Thank you, Mr Godin. We appreciate your presentation today. Time has expired, unfortunately.

1620

REGIONAL GROUP OF COMPANIES INC

The Vice-Chair: The next presentation is from J. M. Gould of the Regional Group. Good afternoon, sir. Welcome to the committee. You have been allocated 15 minutes for your presentation. The committee always enjoys asking some questions, so if you could reserve some time for the committee, that would be appreciated. Introduce yourself and you may begin.

Mr Gould: Thank you. Mr Chairman, members of the standing committee, my name is Jeff Gould, and I am senior vice-president with the Regional Group of Companies.

One of the focus areas of the Regional Group is property and asset management. In Ottawa and the area we manage, on a fee basis, several thousand residential rental units. Most of these units are pre-1975 and are suffering the devastating effects that rent control creates.

Being active in property management for over 20 years, I remember the introduction of the temporary rent control measures and in fact recall travelling to Toronto to make a presentation to the then standing committee on the legislation. I am troubled when I think of the hundreds of hours I have spent contemplating, preparing and making presentations to committees on rent control matters, and to what avail?

Just in the recent past, when one considers hearings on Bill 4 and responses to the green paper, Rent Control: Issues and Options, the position taken by the government seems to be crystal clear. Recommendations were completely ignored in the case of Bill 4 and the legislation passed unchanged. Now with Bill 121 we see the "preferred options" which the minister had presented. The proposed act ignores the recommendations made.

I challenged the minister in March 1991 to be honest and forthright with every landlord, tenant and property owner in Ontario. I challenged the minister to review the green paper to understand what it said, but most of all I challenged the minister to be honest. What were the intentions of the act to be, what were the intentions of the government and what is to happen with rental housing in Ontario? None of these questions were answered.

Ontario's residential rental stock is aging. A great percentage of the rental buildings are in excess of 20 years of age. I need not tell you people how deterioration increases at a proportionally greater rate as things get older. Research carried out by and for the Ministry of Housing has estimated the cost of doing repairs to the existing residential rental housing stock to be approaching $7 billion in 1990 dollars. When you consider that in 1990 rent paid in all of Ontario's 1.3 million rental units totalled approximately $8 billion, it is not difficult to see that these repairs simply cannot be paid out of existing rents.

It is interesting that at one time the rent control laws, as they existed, differentiated between pre-1975 and post-1976 buildings, the creation of different standards. Now we see the introduction of the seven-or-more, six-or-less residential unit concept. Why not go further and say you recognize that older buildings may require more ongoing maintenance and repairs than newer buildings—maintenance and repair not due to neglect but due to aging. If this concept is understood, then a differentiation could be established between newer and older buildings which contain residential units. Maybe we should go back to the pre-1975, post-1976 concept.

I think we all agree that those who are needy deserve the help and assistance of those who are better off. Why then have the controls on those units which are occupied by those people not in need? Let's have a distinction between needy and non-needy units. You could therefore, through rent control guidelines, recognize the difference between large and small rental complexes, as well as newer and older buildings and units for the needy and not the greedy.

This leads to another thought. We have private and public sector ownership of residential rental housing. Let's do away with the different classification altogether. Let's allow all residential rental housing to operate under the same guidelines. The Ontario government, through the Ontario Housing Corp, operates rental residential housing. Why not utilize their operating costs and capital improvement costs as the basis for guideline rental increases? In any event, regardless of how you proceed, why not be forthright and honest?

Over the years, we have seen how rent controls have become tighter and tighter. We are now going to have a whole new series of restrictions added, and we have not yet even seen the regulations. What is the point of making presentation after presentation when we continually see things getting worse? What future do you want for the private rental residential sector in Ontario? Is it fair to have private individuals invest their hard-earned dollars, dollars which may be used for their retirement, into residential real estate when it is the intention to place more of the financial burden on the landlords? Is it fair to have individuals invest their time and effort in completing the necessary repairs and maintenance within their own buildings, only to reduce further the return which they are trying to achieve?

Let us know. Let the people of Ontario know either that you are proceeding to socialize residential housing in Ontario, the cost for which will be borne by all property

owners in the province—and a heavy load that will be—or are you prepared to let the landlord go back to the free market system, a system which is economically sound, a system which can provide affordable housing to those in need?

The landlords of Ontario are prepared to talk with the government, to formulate and put into action plans to help those who need the help and to take on the responsibility for reducing the deterioration we are now encountering in our residential stock. Let us know what you are doing and how you propose in the end to deal with this most pressing problem without the lies, deceit and political jargon we have been plagued with by all political parties since 1975. Thank you.

The Vice-Chair: Thank you. Mr Tilson, you have about three and a half minutes.

Mr Tilson: I think the plan of the government has been quite clear ever since the notorious interview by Michael Melling, which probably made it more notorious than he ever dreamed, where the now Premier indicated that essentially the government will take over housing, that the private investor will be gone. I think their green paper, which I have quoted at these hearings several times, states that after 1991 virtually all anticipated new rental housing will be social housing, non-profit or co-operatives. Person after person comes to these hearings saying: "We have no intention of building. Why should we?" I think the government's grand plan is that this type of legislation will result in depressing rents so that any land owner or landlord can no longer afford to operate or build housing accommodation. That is the grand plan of this government. I challenge them right now. There are three over here to deny it. Those are my comments.

Mr Gould: I am not really answering, because I do not know the question, but we have managed largely syndicated properties, properties where we are putting together anywhere from three to 25 or 35 individuals to purchase a property. They are not large landlords; they are small investors. In the last five years, we have not syndicated one property in Ontario, okay? I am saying this. It was a little bit in jest, maybe, but I am serious in so far as we have a lot of small investors who do not know what to do. They do not know where to go. They have put their potential retirement funds into residential rental real estate and they are asking us: "What do we do? Do we take our money out? Do we put it in GICs and make a 10% return? What do we do? How do we go?" We do not have the answers.

Mr Winninger: Thank you for your presentation. I hope you do not get the erroneous impression from Mr Tilson that we are trying to preclude the private housing market from delivering housing.

1630

Mr Mahoney: We get that from the bill.

Mr Winninger: That is one good reason why the five-year exemption from rent controls was put in place for new construction.

Mr Tilson, who seems to be a maverick in his own caucus, because just down the hall they are saying we are spending too much money, seems to feel we should be taking money and paying a subsidy to the landlords. On the other hand, he does not want us spending money on social housing because that might put people like you out of business. Do you not think the public and private sectors can live together harmoniously, each delivering housing as it is required?

Mr Gould: No doubt they can. However, over the years, and especially since rent control has come into play, I think the private landlords have proven and shown they are very capable, very diligent and very good operators. My feeling is to let the private sector run it. Do not keep adding to the public sector housing stock, the cost of running it and the cost of building it. Let the private sector run it. Let the private sector do what it has shown in the past it can do. Let them do it properly.

Mr Winninger: So the private sector then can continue to deliver housing with a rent control regime, is that what I am hearing?

Mr Gould: No, I am not saying that. I am saying that if it is geared properly and if the legislation is such that the returns are there, then any developers will know they can build and get a return on their investment dollar and they will build. Right now they do not. You even come out with a summary, and all the summary says is that it is for the protection of tenants, nothing to do with building new units, nothing to do with creating more units.

Mr Mammoliti: What is a fair return?

Mr Gould: I am not a builder; I am not a developer. I said at the beginning I am a fee manager. I have never done any building and I have never done any developing, so I do not think it is fair for me to answer for those who have developed.

Mr Mammoliti: Yet you have told us you should get a fair return. We are asking you what a fair return would be.

Mr Gould: Our investors, I feel, are entitled to anywhere from a 10% to 12% to 14% return on their investment dollar, which is what they can get on other investments. There is no reason why they should get a lower return on real estate than they can in other investments.

Mr Mahoney: Perhaps you can appreciate some of our frustration. We certainly sense yours. From Mr Tilson's comments, in paraphrasing the Premier's comments, I think the answers to your questions are quite obvious. Even though the government mouths platitudes about wishing to have the private sector involved, it is ultimately interested in not having you involved. They ultimately wish to—

Ms Harrington: Come off it, will you, Steve?

Mr Mahoney: If I could see something other than the parliamentary assistant's wonderful statements about wanting the private sector to stay involved in the provision of private rental housing of some sort, I would be happy to retract that kind of statement, but I have yet to see anything; and yet absolute pigheadedness on the part of the government in refusing to put forward its actual agenda.

We have the Housing minister in the room today acting like a fly on the wall rather than participating in the hearings.

Mr Mammoliti: Oh, come off it, Steve.

Mr Mahoney: Well, that is what I see. It would be nice to have the Housing minister come up here and answer your questions directly. I highly doubt that that is going to occur, but I would be delighted to give up the balance of my time if the minister would care to come forward.

The Vice-Chair: Ask your question, Mr Mahoney, please.

Mr Mahoney: My question is on the five-year so-called exemption to new housing. Would any of your clients be predisposed to taking advantage of that, building some new rental housing and taking advantage of that wonderful five-year exemption period?

Mr Gould: As I mentioned before, in our position with the firm we are not developers and we are not builders.

Mr Mahoney: No, your clients, I said.

Mr Gould: Our clients are individual investors. They are basically small, syndicated investors. If there were any means to see the return on their investment by developing, then it would be discussed with us at our meetings. If it was felt it could be done and they could get the return, we would do it.

Mr Mahoney: But you have come here criticizing, and I would like you to give us a straight answer. Would you advise your clients to invest in the construction of rental housing in this province, given Bill 121? Given the statements of the government of the day, would you advise them to take advantage of that wonderful five-year exemption and invest their money in that kind of project?

Mr Gould: I have been involved in property management for over 20 years. I have built my reputation on being honest and forthright and there is no way I could honestly direct any client I have to build at this time under the legislation we have or that is proposed.

The Vice-Chair: Thank you very much for your presentation.

I bring to the attention of members that we have a letter from the Ministry of Housing. The letter indicates 15 questions the committee has asked the ministry to look into. I ask that you carefully peruse that and let the Chair know tomorrow if there are additional questions or if some have been missed so that we can provide the ministry with a complete, up-to-date list.

Mr Tilson: I trust you as Vice-Chair or the Chair will be discussing scheduling with the clerk prior to clause-by-clause discussions so that the ministry can come to us and we can discuss those issues.

The Vice-Chair: I am certain there will need to be some discussions regarding clause-by-clause and opportunities in the future. At this point I do not think we can really do that, but I think you can take it as granted that the committee will decide those things.

Ms Harrington: On a point of order, Mr Chair: With regard to the questioning in the last round, I would like to point out that I believe this afternoon a report from Dr Hulchanski was distributed to the committee, which came out yesterday.

The Vice-Chair: That might be a point of information, but it is not a point of order.

JOHN DICKIE

The Vice-Chair: The next presentation will be from John Dickie. You have 15 minutes to make your presentation. We would appreciate if the committee could have some time to ask questions and discuss your presentation with you. If you would introduce yourself for the purposes of Hansard, you may begin.

Mr Dickie: My name is John Dickie. I am a lawyer and have been acting either exclusively or primarily on rent review matters for about 10 years. On page 1 of my brief I have listed my qualifications to speak to you, which I will skip over. I propose to try to deal with four issues this afternoon. The first is the allowances which this bill proposes to give for major repairs caught by Bill 4. The second is the question of the adequacy of the allowances that will be available in the future for major repairs. The third is the intended discontinuation of the justification procedure. The fourth has to do with retroactivity concerning financial losses.

First of all, if I could draw your attention to the table at page 11 of the brief, what I have attempted to set out here are the allowances the bill would allow a landlord. You can see the assumption is that we are dealing with the building of seven or more units and that the rent is $200,000 per year. One thing I have not set out is that, depending on the location of the building and that kind of thing, the value of this building would probably be about $1.5 million; so in terms of the money being spent on it, figure that this building is worth about $1.5 million.

The way the system works, both previously and with Bill 121, is that the first thing you have to do when a landlord does major repairs is to work out what allowance is necessary to repay the expenditure over the useful life. To get that, just as an estimate, one can use 18% of the cost of the work. In fact, in many cases under this bill it would probably be lower because we are talking about purely structural work. If you look at the first line as an example, if this particular landlord spent $11,000-odd on work, that would be spending 6% of the rent. The gross allowance the landlord would need to pay off the work would be about 1% of the rent. Under this bill and under the Residential Rent Regulations Act there would be no allowance given, because it is eliminated when the guideline is reduced.

1640

If you would look at line 5 on that table, the amount of work is $55,000 and change. The work as a percentage of the rent would be 28%. That would produce a gross allowance of about 5%. Because of the reduction in the guideline—and I am going to come back to this and speak of this in a minute—the actual rent increase that produces for the landlord is about 3%. When you translate that into dollars, the landlord gets back $6,000 extra in his rent to pay off $55,000 worth of work. I am looking across at

column 10. It is not very much money. That is the first point I want to try to make to you.

Under the old system the allowance would have been $8,000 or 4% in the rent. The difference there is not that great, but if you look at the bottom of the table, the last line in the table, because of the way this new bill works, what would have gotten the landlord $40,000 to recover the cost of the work under your bill will only allow $12,000. This is only 30% of what the landlord would have been allowed under the former system. The reason I emphasize that is that there are a significant number of people out there—there are not many of them, fortunately for them—who have spent the kind of money that should have got them that kind of allowance under the old act, whereas under this bill that allowance is not to be given to them, not in 1990, not in 1991 and not ever.

My point to you is that landlords made decisions to perform work under the old rules when those rules promised certain extra rent increases. Bill 4 and this bill deny the landlords those extra rent increases. I concede to you that there is one important element of the cure for retroactivity that is included in Bill 121: It allows claims for work that do not meet the test for eligibility. There are certain types of work that will not be allowed extra allowances under Bill 121 that were allowed allowances before and for the retroactive period they are to be allowed them. That is proper and fair and I commend the government for that and trust this will stay in the legislation. But there is an element lacking and that is an allowance for the amount of work some landlords performed.

My submission to you is that the most fair solution is to eliminate the cap of 3% for this work that is caught by Bill 4. You may not like that because it may produce a rent increase which is too high. If that is the case, then the fair thing to do is to compensate the landlord for the rent shortfall. Then you will have taxpayers as a whole paying for the changes in the rules, not the landlords who got caught in the rule changes. Fine, change the rules, but let us as a society pay for changing those rules. Do not stick a few poor landlords who are out there. I would note that the compensation costs could be kept down by being phased out as a 3% cap on increases flows through.

There is an alternative solution, which is to let landlords be subject to the categories of eligibility but without a cap on the total increase. There are different ways you can do it, but my point is that the rule changes should not have been retroactive in the first place. Since they have been retroactive, full compensation should be provided, not what amounts to a partial and minimal compensation.

As to the allowances for the future, as I understand it Bill 121 tries to walk a tightrope. On the one hand you want rent increases never to exceed a certain amount, defined as a percentage, not as dollars, and that makes the problem worse for people with low rents. You also recognize that there are certain costs of rehabilitating buildings and they have to be paid. For many buildings the rent revenue would not carry the operating costs, the financing costs and the rehabilitation costs. In many cases we have buildings out there where the revenue is not carrying the first two, let alone the third. One of the major reasons for that is because of the past statutory rent increases and the way they have held rents below inflation. There are other reasons, including the fact that many major buildings were built with new technology at the time, and we have learned since then that the new technology was not, in some cases, the brightest. You had people throwing down shovelfuls of salt into the cement to make it set better, except by doing that, you immediately cause the steel bar reinforcements to rust.

All that being the case, major repairs need to be funded in large measure by extra rent increases, and to refer again to the table briefly, I would just like to be sure everyone realizes that when you combine the 2% deduction with the 3% cap, you automatically wipe out 40% of the normal allowance. In other words, if a landlord spends so much money he has a gross allowance of 5% of the rent, but if you take away the 2%, he is left with 3%; that is 60% of the cost of the work. Now, if anyone has any kind of choice, they will choose not to do that because they are not recovering the cost. People will say, "Well, the 2% is there for capital." Well, it may be there for capital except there are all kinds of capital items that are not covered, not eligible any more, like painting units, like recarpeting, like kitchen counters, cupboards, all the things tenants want in their units and that need to be in place for there to be good rental units.

The other thing is you are making no allowance for financing cost increases, for financial losses. There are all kinds of things wiped out, and I say to you the 2% will barely cover those. So, what you are doing when you take away the 2% when a landlord applies, is that you are taking away 40% of the allowance, and that is the minimum you are taking away. If you look at my tables, you will see the landlord has to be bang on 5% or 10% to lose only 40%. If the landlord spends an amount in between those amounts, or greater than those amounts, the landlord loses more, does not recover, in other words, the cost of the work that was done. Let me—and my evidence to you is that major elements of work will be postponed until after the next provincial election, and that will simply be because landlords cannot believe that the allowances they will be entitled to after the next election could be worse than these allowances. There is no financial incentive for landlords to do the rehabilitation work that is necessary on many buildings.

Now, let me skip ahead to the question of financial losses on page 8 of the brief. Bill 4, you may recall, recognizes increases on financing costs of 75% financing. Every fair-minded person, who knows the way rental business is conducted in this province, would realize that 75% financing on a rental building is a modest financing level. Now it is unfair that people should be forced to continue to carry losses at that financing level. People bought buildings expecting to have losses eliminated, and the rules were changed under their feet. I suggest the way to cure that defect is to allow the losses to be passed into the rent, subject to the previous 5% cap, or if you prefer this 3% cap that is in this bill, and base the financial loss allowance on a purchase or a value of the building in July 1990.

The government has alleged there is a flipping of apartment buildings. Personally, I doubt that from my experience in the Ottawa market, and what I have read of Toronto. Certainly buildings are sold, but if flipping is the problem, and that is what the government has said it is, then if you fix the value in July 1990 you are not going to have any more flipping. But, to me, it is unfair that people bought buildings based on rules in place, and the rules have come along and been changed to take away what they were entitled to. It is simply unfair to them, and people say, "It is unfair tenants should face a higher rent increase," and to me the answer is then you subsidize the ones who cannot afford it. Two unfairnesses do not make a fairness, is what I am trying to say.

1650

Mr Winninger: I find your table quite helpful, Mr Dickie. I wonder if you would agree with me that the effect of Bill 121 is simply to slow down the number of years over which a landlord can recoup the cost of his capital repairs? That is, if you have 3% cap in year 1, and 3% cap in year 2—excluding, for the sake of argument, the 2% included in the guideline—it is just a question of how many years it is over which the landlord recovers his cost, because by year 2, you have got 6% increase compounded as a factor of the rent. So if the landlord does not recover his costs as quickly, but he recovers his cost probably over the useful life of the repairs—

Mr Dickie: He would never recover the cost if he spends more than 10% of the rent, because anything more than 10% is thrown away. Like, there is 3% in the first year, 3% in the second year, and then nothing more. So, anything more than 10% is thrown away.

Mr Winninger: But that gets compounded into the rent, it continues over time—

The Vice-Chair: Thank you, Mr Winninger.

Mr Dickie: Well, no it does not get compounded because you are paying the first part, the first 10% out of that 6%, and then you spend more and get no more money. You cannot possibly be paying for it.

Ms Poole: You have stated in your brief the major work will be delayed until after the next election, and that there is no financial incentive for landlords to put money into their buildings if they are only getting back 60 cents on the dollar. When I had discussions with a number of tenant groups, and we have talked about this, their answer is, "Yes, there is a financial incentive for the landlord to maintain the equity in the building, and when the landlord sells the building, this will all be very helpful." The question I have is that I am under the impression that when a building is sold, it is based on a formula tied to the rents for those units in the building. Obviously, the kind of condition the building is in would have some effect, but the primary focus is on the income from that property. If this is so, then where is the financial incentive to put a lot of money into the buildings if you are not going to have cost pass-through?

Mr Dickie: That is exactly my point. You are right, it is primarily based on the rent revenue, and if there is no cost pass-through, then there is no incentive to do work unless otherwise the building would literally fall down, whereas Bill 51 struck a balance in terms of keeping buildings upgraded to some extent.

Mr Tilson: I would like you to clarify your comments with respect to subsection 16(2), which is the transition section dealing with retroactivity. I believe you appeared to be complimenting the government for some form of compromise enabling the rent officer not to consider a capital expenditure if it became necessary as a result of neglect. We have received testimony from different people that is not a good subsection because, again, it is changing the rules in mid-stream, it was at one time granted and now it is taken away, and second, and more important, we do not even know what "neglect" means. Do you have any thoughts on that?

Mr Dickie: You have mistaken my meaning, in that the section that I am praising is subsection 16(1), the fact there is no test to the work if it was done before a certain date, whereas under subsection 15(2) there is a test according to whether it is necessary for the structural integrity, blah, blah, blah, blah. Now, there are still defects with subsection 16(1) in that there is a cutoff date at the beginning as well as at the end, and to me the cutoff date at the beginning makes no sense because someone in certain circumstances could have done work earlier and been entitled to claim it. There is no sense to that beginning cutoff date. It should just fall under the regulations for dealing with the financial—

The Vice-Chair: Thank you, Mr Dickie. We certainly appreciate your presentation.

URBANDALE REALTY CORP LTD

The Vice-Chair: The next presentation will be made by Peter Burns of Urbandale Realty Corp Ltd.

Mr Burns: It seems that we have all been through this many times over the years.

The Vice-Chair: I think so. You have 15 minutes allocated to you.

Mr Burns: Peter Burns, I am vice-president of Urbandale Realty Corp. At the start of my brief are some of things I have done. That is to impress you with my great knowledge as to why I should be here.

I am not going to read the brief, although I kept it short. You have heard from so many saying much the same things from the landlords' perspective, and not just the landlords' perspective, of some of the problems that we see with the bill. I decided to deal with specific matters of items that might be changed; that if the bill is to be adopted, and my feeling is there will probably be very little change, there are some items that I think will make it easier to work with. Do not take that as an endorsement of the bill as such.

If you do not mind—and I know from previous experience the members of the committee read faster than people speak and you do have my brief there—I will just go through a number of sections. So I am getting into detail, rather than philosophy.

Starting off at subsection 12(1), and this has been mentioned many times, older buildings cost a lot more to maintain. There is more wearing out and the quality of construction vis-à-vis the Ontario Building Code and the construction techniques were not what it is for today's building. So there are some built-in problems as well as age. As such, we think you should recognize old versus new—maybe 25 years is the breaking point—as you took some account into small versus large.

Subsection 15(2): I hope in the regulations or in your clause-by-clause you will look at this for clarification, that when you are doing work sometimes you will have to do it to the building code if you have taken out a building permit, and certainly common sense dictates that you go to today's building practice and not the original standard.

Clause 15(2)(b): Hopefully this does not infer that a municipality must issue a work order before you can show the need to do that kind of work and that you can use the standards in the municipal bylaw or in the provincial standard as the basis of your application.

Clause 15(3)(a): I think there is going to be a lot of grief over trying to deal with neglect in a ruling. Something is going to fail eventually. Did it fail this year instead of next because you did not do something? Sometimes it is cost-effective to let something wear out and replace it because the labour is more than the component, and so it is not worth getting in to oil it.

Clause 15(3)(b) again brings up the problems of judgement as to whether it should not have been replaced. Provision should be made for bringing in technical evidence to satisfy this concern, the argument of whether you patch it or if you have really run out of steam patching the roof and it is time for a new roof and the opportunity to possibly add some insulation.

Section 16 is of particular concern to my company because we were one of the ones, unfortunately, having done quite a bit of work, $3.6 million, who just missed the deadline and were able to be caught by the moratorium of Bill 4. The cap I can see, in that the government is trying to say tenants should not receive an undue rent increase in any one year. In other words, they can look forward and budget. It seems to me that for Bill 4 to work, when you reapply, which is now permitted, consideration should be given to not imposing the carry-forward. In other words, the work was done in good faith, let it carry forward until whatever has been justified comes back to you. Based on the present legislation, where we spent $3.6 million, we will probably be lucky to recover but $1.7 million, which is quite a kick.

1700

In section 21, and I touched on that, the transitional work caught by Bill 4, the effect of the cap and the one-year carry-forward, and even beyond that, once you have dealt with the transitional for new work, from what I can see from my arithmetic, on a typical $400 rent, which outside of Metropolitan Toronto is not unusual, you can do about $1,000 of work per year per unit. I spent a lot of time documenting for the standing committee costs of some of the non-profit and Ontario Housing in my brief on Bill 4, and I am not saying they are spending too much money. They are going through the realities of a lot of projects built in the 1960s, the problems with roofs, brickwork, concrete garages, and the private landlord has no secrets that Ontario Housing does not have in doing that kind of work at about a 10th of the cost.

Section 25 is a concern in that if a tenant is challenging the standard of maintenance or repair, on what basis: What the tenant has been used to in that building, which is fair, or saying it is not as well kept as one down the road, which may be fairly new and could be at four or five times the rent? I would like to see some further guidelines coming out under section 25.

I am not going to go into the figures that are in my brief, pulling out again some of what we had with the non-profit, the Ottawa-Carleton Regional Housing Authority, some of the findings of the city of North York. I think you have heard them many times, and will, as you continue to go around the province.

I think we all realize that Bill 121 has been brought forward as legislation for the protection of tenants, but surely some of the changes would make for better administration, provide a little more fairness and afford a good landlord some opportunity to provide adequate maintenance for his tenants. I think most of the landlords you are hearing from, certainly around Ottawa that I know, want to be good landlords, have been landlords for many years, have a relationship with the tenants and would like to keep that. Our worry is running out of money in the major repairs as the older buildings come forward with major work and not being able to do it satisfactorily.

I will leave it at that, Mr Chairman.

Ms Poole: Thank you very much for your comments today and your specific suggested amendments to the legislation, which have been quite helpful.

I want to talk to you about the Residential Rental Standards Board. I happen to agree with you that that board should be reinstated. One of the problems with the standards board under Bill 51 was that it had to utilize the rent review process in order to do its job, which really bogged it down and created the backlog. So instead of going to the source of the problem, what the government has done is put it in rent review, which I think will mean that maintenance will take a back seat.

I want to ask you about one of the most contentious parts of the rent penalties in the work order section. That relates to the substantial standards and the fact that the landlord does not have any opportunity to prove extenuating circumstances. The way this legislation is drafted right now, it does not go after the abusers of the system, like I think they should; this goes after every landlord, even ones who are genuinely attempting to get work done on their building.

Would you like to comment on the kinds of safeguards that were in Bill 51, such as the fact that the director had to look at extenuating circumstances, the financial picture, whether the work was seasonal, all that type of thing, and whether you would like to see that incorporated in this legislation?

Mr Burns: I do not think the Chairman is going to allow me enough time to get into these sections of the bill.

The Vice-Chair: You are probably correct.

Ms Poole: Good guess.

Mr Burns: I am worried. There are a lot of traps there. The standards board was able to examine a municipal work order and pull out the substantive non-compliance, and that would flow through for a rent penalty. It was very slow at first. It is fairly well current now.

I am worried about the automatic items that are in the bill, like he has 30 days. A garage takes two years. A landlord can ask for a review of the notice of rent penalty. The review is by a person who reports to the director, which is not a fair review. That is just another one. Certainly the 30-day and the automatic process. A lot of municipal orders are very minor: paint, what have you. Others are very serious. They need culling. I do not see discretion in these sections and I hope that is looked at.

The Vice-Chair: Thank you. I hope I allowed you enough time. Mr Tilson.

Mr Tilson: I do appreciate your suggestions for amendments, because that will be the next stage that we will be proceeding with, and I certainly find your comments very helpful.

One of the concerns that I have, and I would like to hear your thoughts, is that the Ministry of Housing has indicated to us that it is unlikely that there will be any regulations or draft regulations put forward with respect to this bill until after the bill has received royal assent. My response to that is that I do not know how we can properly answer many of the questions that you have put forward when we do not know what the guidelines are to assist some of these individuals making these decisions, or worse yet, we do not even know what some of these words mean.

Mr Burns: I hope that you will correct much of it in the bill, because the regulations should flow from an understandable section of the bill. So I hope your work is now, and not worrying after regulations come out, which are not subject to the same scrutiny.

Mr Tilson: The difficulty, of course, is that you ask for guidelines, for example, to assist individuals in making decisions. Normally those types of things are put forward in regulations, as are in many cases the definitions, and that is the concern that I have.

Mr Burns: I hope you can tighten up as much as possible "neglect" and "unnecessary" and items like that.

Ms Harrington: Mr Burns, you are certainly a unique presenter—I remember you from before—because you have a background in realty, the standards board, property standards for the city, as well as the Ottawa housing authority. I have not seen anyone with that—

Mr Burns: It just means I have been around too long.

Ms Harrington: Well, I would like to make use of some of your expertise. First of all, I wanted to state that our government, as you know and everyone knows, I believe, is very serious about addressing the maintenance problem. We need to work with the municipal bylaw enforcement people, and that is a direction that we are definitely going to go.

The question that I wanted you to reflect on for me is, the question has been raised today and many other days with regard to the connection, if any, between the housing supply and rent control. We have been told that the housing supply problem is quite different from any regulatory problem relating to existing stock, which is what we are dealing with in this bill. We have been told that the American planning institute—there were 75 studies done on rent control in the USA, and there was absolutely no link between these two things, the supply of rental housing and the regulation of the rental market.

The Vice-Chair: And the question is?

Ms Harrington: I would like to propose that there are many other factors that have come into play.

The Vice-Chair: Mr Burns is not going to have an opportunity to reply.

Ms Harrington: The market forces were not working way back from the 1970s, and the high-income renters have now owned condominiums and they are gone. Therefore, you cannot build rental at the high end of the market. So I would like you to comment on that, if you could.

The Vice-Chair: We would like Mr Burns to comment also, but the 15 minutes have expired.

Mr Burns: There is an ebb and flow in the market, and rent control does cut across that, and that is certainly one of the problems.

The Vice-Chair: Thank you, Mr Burns.

Mr Abel: I guess the 75 studies are wrong.

1710

SOCIAL PLANNING COUNCIL OF OTTAWA-CARLETON

The Vice-Chair: The next presentation is from the Social Planning Council of Ottawa-Carleton, Jim Zamprelli, executive director.

Ms Moriarty: I am Jim Zamprelli.

The Vice-Chair: Hi, James.

Ms Moriarty: Welcome to the world of non-profits. My name is Cindy Moriarty—I am sitting in for Jim Zamprelli—and this is Terry Gilhen.

The Vice-Chair: Thank you. You have 15 minutes.

Ms Moriarty: It will be brief. The social planning council is an umbrella group. We do not provide housing services or direct services of any kind, but we are made up of 109 local agencies and over 200 individual volunteers who are involved in those issues. So we are the planning branch, the advocacy arm and the co-ordination body for a lot of community agencies that come together in Ottawa-Carleton. Therefore, we treat this rent control legislation from a policy framework perspective and our comments will be based on that.

As an organization that is committed to affordable housing and as an organization that believes the provincial government should share that commitment, we support rent control legislation. We will speak specifically to pieces of that, and we see that as essential. We also

recognize, however, that it is just a small piece of the framework. We are going to limit our comments to the rent control part, but I think it needs to be said that there are other issues that come into play.

Our clientele largely is low-income groups, very few of which are in subsidized housing. When you get into the numbers games of rent control, it does not do a whole lot to help the person on a fixed income of $400 a month if there is not access to affordable housing. In terms of a context, I would like that to be understood from the outset.

I am going to defer to Terry, who is the author of our brief, to go through our specific comments, and then we would be happy to answer any questions.

Mr Gilhen: As Cindy has suggested, we are in general agreement with the thrust of this rent control legislation. We believe in rent control as one part of a comprehensive housing policy which will afford access to affordable housing.

That being said, the method for determining annual rent increases we feel is fair. Using inflation as a balance seems to provide a fair way of giving landlords return for their costs as well as protecting tenants from extreme rent increases.

It has been said already this afternoon, and we are going to say it again: We do have some problems with the two-guideline system. As others have said, our problem with that is that it is going to add to the complexity and therefore confusion will result.

The council therefore recommends that a one-guideline system be used, and in recognition of the fact that there are equity problems between smaller and larger land owners, that other measures be instituted.

In relation to capital expenditures, we do have a number of concerns. The council is fundamentally opposed to paying for capital expenditures solely through a cost pass-through system. This legislation appears to do that. Under Bill 121 we have a 2% cushion identified specifically for operating costs. Nowhere in the legislation are landlords being asked to account for that 2%. We feel there should be some measure put in place whereby landlords do account for those costs.

That is particularly important when you look at the eligibility criteria for rental increases above the guideline. Among those criteria are allowances for ongoing maintenance responsibilities, such as the provision of plumbing, heating, mechanical and electric ventilation systems. Those, we contend, are already covered by the operating index, which is used to determine the annual increase.

We are recommending, therefore, that the eligibility criteria not allow for the cost of providing maintenance which is already covered within the operating cost index.

We are also recommending that the Ministry of Housing provide funding to tenant groups—and a number of them have presented themselves here today—in order to conduct consultation around tenant involvement in the decision-making process. We are concerned at this point that tenants are not involved in decisions relating to capital expenditures, and well they should be.

On the subject of residential standards and building maintenance, poor building maintenance has been a problem which previous rental housing legislation failed to control. The crux of the matter is enforcement tied to clearly defined lines of responsibility and efficient processing. At present, municipalities fail to adequately enforce bylaws governing building maintenance, and the province in turn fails to monitor the performance of the municipalities. Far too much is assumed to be happening when in reality it is not. We would like to see the provincial and municipal areas of responsibility for work orders related to property standards clearly defined and that a maximum 15-day turnaround time be set for the forwarding of these work orders from the municipality to the province.

We would also like to see some proactive measures taken with regard to maintenance of property standards, and we are suggesting full building reviews whenever an individual rent rebate is granted and the institution of a provincial review of property standards is called for.

Rent registry: We are generally pleased with the improvements made to the rent registry. We would again, however, like to see tenants given more power. We feel that tenants should be entitled to register rents. It is very important, and I do not think this has been brought up or emphasized enough this afternoon, that public education campaigns be instituted. We have recommended this specifically under the rent registry. We feel tenants should be made aware of their rights within the registry, and again we would suggest that there are a number of tenants' groups which can be a resource to the government, providing ways and means of getting that information out.

On the decision-making administrative structure, the social planning council has pushed for an accessible and non-threatening system. Again, the legislation fails to provide us with that. The council recommends a two-level hearing system, one for the termination of applications for rent increases above the guidelines and one for appeals. Under the suggested one-level system, landlords would appear to be given an advantage in that they will have access to the funds required to cover legal costs incurred, which would definitely deter tenants. A number of decisions could easily be made, we suggest, at a lower and less formal level of appeal.

We are opposed to fees being charged to tenants or landlords for accessing information in the rent control system and for applying for an increase above the guideline or a rent rebate. We are also recommending that funding be provided for enhancing access to rent review services. It has proven here in Ottawa-Carleton to be extremely difficult if not impossible to get through. More direct telephone lines and more staffing resources are called for.

I am going to come back to the public education that has been mentioned, and we recommend that once again for the general public, when we are talking about education, we would ask you to remember that among Ontarians there are many who have communication difficulties that need to be recognized. When we do an information campaign we have to remember that some of us require alternative media, some of us require Braille, some sign language. There are a number of different languages and media we should consider. As well, remember there are resources in the community to help to do this. The social

planning council, through its shelter forum and its member organizations, is there.

In conclusion, I would like to bring us back to the original statement we made. Rent control is a necessary component of a comprehensive public housing policy which is necessary to provide affordable housing to Ontarians. Thank you.

1720

Mr Tilson: One of the major issues in these hearings is where the money is going to come from to complete capital expenditures to a housing stock that is quite old, generally speaking, throughout the province and I am sure here in Ottawa specifically. We heard from the bankers' association on Monday, who told us that the financial scheme being put forward by this bill simply will not allow for them to provide mortgage financing or any other financing to enable capital expenditures to be made. We have tenants saying they know they cannot have any more of these 30% increases or whatever they might be. We have landlords who are saying they do not have the money. It is just not there.

You are supporting the bill, but a bill that is going to result in the quality of life of tenants of this province deteriorating, because capital expenditures—we have had several speakers here this afternoon who have said, "We are not making any more capital expenditures until after the next provincial election." I guess I am asking you to go one step further in supporting the bill. Do you accept those statements?

Mr Gilhen: I accept those statements. I would suggest there are other ways to recoup the costs incurred, capital expenditures. The government has to be involved. We would recommend government-assisted programs such as low-interest loans for providing for those expenses. It is just not acceptable to expect tenants will bear the total costs for those.

Mr Tilson: The taxpayer is speaking, too. We are having taxpayers' revolts all across this province.

Ms Moriarty: One of the issues is accountability and fairness. We are not saying that landlords should have to suffer for capital expenditures. We are questioning how those allowable expenditures are determined and what kind of input into that process there is. If I start getting into a numbers game, we have sort of lost it. We are looking at those principles and guidelines that have to be built into the legislation. I think we also have to differentiate between profit-making enterprises and non-profit housing provisions. There are differences in levels of service, you know. There are management issues; if you are out to make a profit, there are certain responsibilities in how you handle that, and it has to be done fairly. I trust the landlords to be ethical and fair. When you are dealing with non-profit services, it is different.

Ms Harrington: First of all, I would like to thank you for these detailed recommendations. You have done a lot of work; you have discussed the importance of tenant involvement and communication with tenants, and certainly that is important to our government. One example that was before us earlier, the housing help centres, I believe, are a good example of how they serve both tenants and landlords and bring them together in the community. I know it was a Liberal initiative, but it certainly was a good one.

Ms Poole: On a point of order, Mr Chair: Did she say something good about the Liberal government?

The Vice-Chair: No, no.

Ms Harrington: I believe, and maybe this is too idealistic, but somehow landlords and tenants have to form a team to deal with the housing problems with the government in this province.

I want to come back to the issue Mr Tilson was discussing with you: Where do the moneys come from for the capital costs that are necessary facing us this decade? They are massive. That is a very legitimate question.

The Vice-Chair: Are you hoping for an answer?

Ms Harrington: We believe as a government that the landlords, the tenants and the government share in this. The government has programs, like the low-rise rehab program. The tenants certainly want good conditions around them and it is the landlord's building. Would you comment on how that responsibility could be divided up?

Ms Poole: You have 10 seconds.

Ms Moriarty: I think I will just end up repeating what I have just said. I cannot tell you in terms of a package program that tenants should do this and landlords should do that. Yes, I agree there should be a partnership, and I think there are good resources among the community and groups such as Housing Help and the Social Planning Council and other groups that can work together to come up with those models. I cannot today. I do not think we are prepared to say this is how it should happen.

Ms Poole: Thank you very much for your presentation today. I was quite interested in your section on decision-making and administrative structure, particularly your recommendation that we have a two-level hearing system. We have had a fair number of presenters who have criticized this legislation because it does severely restrict the right of appeal. I wondered if you could just give me an idea of how you would like to see this work out. Are you suggesting there be actually two hearings, one hearing then the right of appeal, or that it be administrative tribunal first and then a right of appeal? How would you see that work?

Mr Gilhen: Again, you are asking us and I would like to be able to give you the kind of detailed answer to that question you deserve. I am suggesting that having the one hearing system seems to provide, or seems to create, a barrier for tenants who are not going to be able to afford the legal costs incurred, as I have said. There needs to be a less formal method of dealing with decisions which do not require that level of formality.

Ms Moriarty: I think there are other resources available. There are legal clinics and paralegal services that are quite capable. The Federation of Metro Tenants' Association will probably speak to that. I got a preview of their brief. There are other avenues available that make it accessible, and the barriers are imposed not just through finances but through the whole magnitude of a structure that

can be very onerous for a tenant and very comfortable to the big landlord.

The Vice-Chair: Thank you. We appreciate your presentation.

EASTERN ONTARIO LANDLORD ORGANIZATION

The Vice-Chair: The next presenter is the Eastern Ontario Landlord Organization, Mr Luigi Caparelli. Good afternoon, sir. As you know, you have 15 minutes allocated by the committee to you. If you would introduce yourself you may begin your presentation.

Mr Caparelli: I am here today as a representative of the Eastern Ontario Landlord Organization. We represent virtually every major landlord in the area along with a couple of hundred of the much smaller landlords. EOLO is dedicated to educating the public on the importance of a properly functioning rental housing market to the economic wellbeing of the people of Ontario. We also devote a great deal of resources to educate landlords about their rights and obligations as owners and managers of residential rental property.

Unfortunately, we have spent most of the nine months attempting to correct misconceptions in presenting the position of landlords to the government of Ontario. While we appreciate the opportunity to make our views known to this committee, we are quite frankly frustrated and disillusioned by the entire process. You see, Mr Chairman, we presented a major brief to this very committee when it was holding hearings on Bill 4. We met with the former minister and we researched and wrote a detailed response to the minister's green paper, Rent Control: Issues and Options, all to no avail. The government's intransigency on the issue of rent control has been made abundantly clear. After the government was forced to hold public hearings on Bill 4 it ignored every recommendation made to it. The government used its majority in the House and on this committee to ram Bill 4 through, virtually unchanged.

Former Housing minister David Cooke then released his green paper which clearly identified the issues and presented several possible alternative options to deal with the problems. In most cases, the minister also indicated his preferred option. Despite universal objections from the landlord community across this province to his preferred options, Bill 121 incorporates all of his preferred options and all but ignores objective suggestions, not only from landlords, but from virtually every expert in the field.

It is with this background in mind that we are once again before you. The government has already made its position crystal clear. It is not prepared to compromise on any of the principles enunciated in Bill 121. In view of this, we believe it would be pointless to go through Bill 121 point by point and attempt to offer constructive suggestions as to how it could be improved. Past experience leads us to believe that Bill 121 will become law virtually unchanged.

Instead, we will use this time before you in an attempt to educate both this committee and the public as to the disastrous consequences of Bill 121 and to present the present and future costs of this government's housing policy to the taxpayers of the province.

One of the things we looked at were the costs the government of Ontario incurs in running units owned by Ontario Housing Corp through the Ottawa-Carleton Regional Housing Authority here in this area. Figures for the past few years show that operating costs have been increasing at the rate of more than 10% per year. On top of this, the Ottawa-Carleton Regional Housing Authority spends an additional $7.5 million, which is approximately 17% of its budget, each year on capital improvements. That is in addition to the 10% increase in its operating budget. In short, while the Ministry of Housing cannot operate its rental properties with increases of less than 10% per year, the private sector is expected to do so.

1730

A 1986 study by the city of Toronto unequivocally states that the province's 334,000 high-rise rental units, out of a total of approximately 1.2 million rental units, will require $6 billion of capital repairs in order to be properly maintained. This compares to total annual rents generated by these 334,000 high-rise units of approximately $2.225 billion. As you can see, the funds simply are not there to carry out needed renovations.

Why do landlords not have funds set aside for these required renovations? Surely, like the homeowner, a prudent apartment building owner would put aside a certain amount of his revenue each year so that funds would be available to carry out this inevitable work. Tenant advocates have often said that there is plenty of money in the existing rent structure to support all the maintenance and capital improvements that are necessary. This is often accepted as self-evident truth, even though there are no objective facts to support it.

The answer is quite simple. For the past 15 years, since we have had rent review in this province, the rate of increase has fallen significantly below the rate of inflation. If you use 1975, the year rent controls were introduced, as your base, rent increases have gone up 48 points less than the rate of inflation. Clearly, landlords have fallen far behind in the rents.

What does this mean? The average landlord, small and large, will have no choice but to cut back on maintenance. Capital repairs will be postponed indefinitely. This will result in the loss of billions of dollars and thousands of jobs to the economy of Ontario. Of even more importance to the taxpayers of this province is the fact that all of these billions of dollars were coming from the private sector. Landlords required absolutely no assistance from the provincial or federal treasuries.

There is a clear and irrefutable correlation between the introduction of rent controls and a drastic decline in the number of rental units constructed by the private sector, despite a steadily decreasing rate. I am not going to tell you that rent controls are the only issue that caused this, but they were certainly a major issue.

If you look at the figures, and I have provided them for you in the brief, in the three years prior to the introduction of rent controls, the private sector was constructing an average of 26,700 rental units per year, or approximately

76% of all rental units built during those years. In the three years following the introduction of rent controls, the private sector built only 16,100 rental units. Even more significant, that represented only 33% of all rental units built. Not only does this represent a dramatic loss of economic activity in the form of forgone construction, loss of municipal taxes and loss of subsequent work for trade and maintenance people, but it means that the public sector must continue to build taxpayer-subsidized rental units in order to meet the demand. It is here that one gets to the crux of the matter. Just how much does providing all this publicly assisted housing cost the citizens of the province of Ontario?

There are three major sources of social housing in the province, funded in various portions by the federal and provincial governments. Public housing, through Ontario Housing Corp, has some 103,000 units, which cost approximately $421 million to operate in 1990. Non-profit and housing co-operatives include some 84,000 units at an annual cost of $663 million. The rent supplement program, which places low-income tenants in private apartments, has approximately 17,300 units, at an annual cost of $87 million.

In total, these programs will cost the two levels of government in excess of $1.1 billion. We see no need to differentiate between federal and provincial funds. That discussion, I believe, would be an insult to the intelligence of both tenants and landlords. Ultimately all funds come from the same source, the taxpayer. Besides, the federal government has made it abundantly clear that it intends to reduce all transfer payments to the provinces, and has in fact begun to do so.

Today, there are approximately 44,000 households on waiting lists which would qualify for socially assisted housing. The provincial government has given clear indication that its preferred approach to providing housing for these core needy households is through the creation of non-profit and housing co-operatives. In fact, the government has announced its intention to provide funding for some 20,000 non-profit housing units in each of the next two years. The NDP has estimated that the operating subsidy alone for the initial 20,000 units would amount to some $190 million per year, or $9,500 per unit annually—and those are 1987 costs.

Based on the present distribution of 40% core needy, 30% moderate and 30% market rents, the provincial government would have to subsidize the creation of 110,000 units in order to house the 44,000 core needy on present waiting lists. At an average subsidy of $9,500 per unit, the solution chosen by the NDP government will cost the taxpayers of this province in excess of $1 billion every year, and these again are 1987 dollars. If updated to 1992, which is when the first of these units will come on stream, the cost will be somewhere in the neighbourhood of $1.32 billion. This, you have to keep in mind, is an operating subsidy. That cost will be incurred each and every year.

It is important to note that this is an average subsidy only. It includes a subsidy to those units which are rented at market rates. The private market would build these units with no subsidy from the taxpayer. If one looks at these costs, it can be seen that in order to provide housing to the 44,000 core needy, this program would in effect be providing each of those 44,000 units a subsidy of approximately $2,000 per month. Are these the actions of a responsible government in touch with the desires of its electorate?

Another thing we would like to look at is, who actually benefits from rent controls? Why is the government spending more than $1 billion annually on housing programs and why is this government prepared to more than double this spending commitment? The government contends that rent controls are required to ensure affordable housing. The government is constantly informing the citizens of Ontario that far too many tenants are paying a disproportionate amount of their income for rent and that rent controls help people at the lower end of the socioeconomic scale.

We have included a table which does not seem to confirm this. All information comes from Statistics Canada. What we see is that housing affordability is loosely defined as paying less than 30% of one's income to meet housing needs. The table brings home the astonishing fact that the average tenant in the province of Ontario pays only 7.9% of his income in rent. Only 25.6% of Ontario tenants are paying more than 30% of their income for rent. The inescapable conclusion that any objective observer would reach is that rent controls are a tremendous transfer of resources from the average taxpayer to wealthy tenants, with poor tenants continuing to suffer. The 44% of tenants at the top of the income scale in the province are paying 17% or less of their income in rent. Are these the people that the NDP wants to help? Clearly, these are the people who benefit the most from rent controls.

To landlords, it is these facts which should and must be the death knoll of the present rent control system. Why should landlords and the average taxpayer subsidize someone who only pays 17% of their income in rent? Surely the government's scarce resources should more properly be directed at the 26% of tenants who are paying more than 30% of their income in rent.

Our organization advocates a simpler and more effective and much cheaper solution, which has been raised by many other groups and virtually every economist who has studied the problem. Average rents across the province of Ontario are roughly $550 per month. The province could easily fund the 44,000 core needy families at an average of $300 per month, with the needy family contributing the remaining $250 per month. This would cost the provincial Treasury approximately $159 million annually, for a net saving to the taxpayers of almost $1 billion per year.

The government must announce the phasing out of rent controls, coupled with the rent subsidy to all those who require it. This would provide the only required incentive for the private market to build rental accommodation. It would result in a badly needed investment in the province's housing industry and would create thousands of urgently needed jobs in the construction industry, as well as provide thousands of jobs to trades in the repair and renovation industry.

[Applause]

The Vice-Chair: This is a proceeding of the Legislative Assembly. There can be no interjections or other demonstrations from people attending. I would ask you help the Chair in maintaining the decorum necessary. Each caucus will have one question. Succinct, please.

Mr Abel: I will try to be as succinct as I can. Just yesterday, this committee received expert testimony. In that testimony, Dr David Hulchanski stated that the supply and demand in the rental market simply does not work. He went on to define rent controls. He said they are not a solution to the housing problem. They are not a subsidy to tenants. They are not even a housing program. Rent regulations are housing-related consumer protection legislation made necessary by failure of supply and demand in the private rental market. He concluded by saying that Bill 121 is absolutely necessary for consumer protection in a market that is not working. What are your comments to that expert testimony?

1740

Mr Caparelli: We have charts from federal and provincial sources which show that prior to rent controls the private sector was building an average of 26,000 units per year. Immediately following the introduction of rent controls, that dropped to 16,000 units per year. More recently, it has dropped to about 5,000 or 6,000 units per year. I do not know where the figures come from; I do not know what this expert was basing his findings on. Those are figures of rental starts in the province of Ontario. I do not see how you can argue with them.

Ms Poole: Thank you very much for your presentation today. We have, as you realize, an aging housing stock, where the vast proportion of our housing is at least 15 to 20 years old. Many of the units are much older than that. My concern is that if we do not have fair provision in Bill 121 to ensure that maintenance and repairs are taken care of, then it is not going to happen. I know you have said you did not want to concentrate on changes to Bill 121, but what could be done to it to ensure that the landlords of this province will put money into our aging housing stock and make sure that tenants have a decent place to live in?

Mr Caparelli: The first thing that has to be done is that a more realistic cap has to be looked at; second, rolling forward of the cap for more than one year. The simple truth is that two years at 3% is simply not enough to pay for major repairs like garage restorations and roof replacements, or even recladding the exterior of buildings. That is simply not enough. Rents have fallen some 48 points below the consumer price index in the last 15 years, so landlords do not have the moneys to spend on it. The money has to come from someplace, and that 3% cap for two years simply is not realistic.

Mr Tilson: I tend to agree with your initial comments. I do not think this government has the slightest intention of making substantial amendments to this legislation. We will hope that they will, but I doubt if they will. What do you anticipate will the standard of maintenance and repair in this area, and throughout the province, if the legislation and what it is putting forward continues?

Mr Caparelli: There is little doubt in my mind that the standards will deteriorate across the province. That will result in the ministry attempting to enforce higher standards through its inspectors and through its standards, which will result in more strife between landlords and tenants. The end result is that I do not think you will actually see an improvement in the standard of maintenance and you will see a deterioration in the relationship between landlords and tenants, which does not benefit anybody.

The Vice-Chair: Thank you, Mr Caparelli, for appearing before us today.

CRAIG HENRY TENANTS ASSOCIATION

The Vice-Chair: The next presentation will be from Stephanie Venator Paul of the Craig Henry Tenants Association. You have been allocated 15 minutes by the committee. If you would introduce yourself, your position within the organization, and the organization for the purposes of Hansard.

Ms Paul: My name is Stephanie Venator Paul. I am one of the founding members of the Craig Henry Tenants Association. For an introduction, we would like to say that Bill 121, the proposed Rent Control Act, is by far the best rent act that tenants in this province have seen in a long long time. Although we find that we have more protection, we also see we have some of the same nightmares.

Maximum rent: Under the old rent control act, maximum rent was initiated. Unfortunately, to tenants, it is still fact under this legislation. The tenants whom I represent are directly affected by this. In today's rental market, with a vacancy rate of 1.5% for Ottawa-Carleton, tenants will still be hit with rent increases above the guidelines. A large percentage of tenants in my development are public servants, whose employers, as we know, are practising wage restraints. Some, like the military—about 40% of my tenants are in the military—are not getting any raises this year and others are getting well below the 3% that we are all hearing about.

Rent increases based on the legal maximum rent will put undue hardship on these families. In my complex this is very good news. Our landlord is contracting out maintenance and outside work—the lawn cutting, the snow removal and the garbage cleanup. We found a decrease in service being provided for us. For instance, the grass in my backyard is long enough for me to lose my dog in.

We have had tenants who have been seriously hurt in the winter because of improper snow removal in common areas and laneways. We also have tenants paying for garages to park their autos in; they have not been able to use them for the last six months, and we are still counting.

In Nepean, where my complex is located, we have a property standards bylaw. Fortunately, my complex is covered by this bylaw, so we have access to the provincial standards. But there are thousands of other tenants in Nepean who are not covered by this bylaw, meaning they do not have access to the provincial standards. We hope this government will clear up this problem and make it just for all tenants.

Tenants' organizing rights: We, as a relatively new tenants' organization, are happy to see that we will have

greater protection under this act, although we feel we must acknowledge that to date our landlord has not given us any problems in the forming of our organization. We feel that all tenants will not have an easy time of it, and for them we are grateful for the steps this government has taken.

At this time, I would like to thank you for the time allotted to me and also I would like to decline from answering questions. As I stated earlier, the Craig Henry Tenants Association that I represent is only one month old, and we feel the time could be used by other organizations that have far greater concerns, problems and/or suggestions that we do, and we just wanted to have a say.

The Vice-Chair: Thank you. We appreciate your presentation.

Ms Harrington: On a point of order, Mr Chairman: I would like to thank the woman for coming forward; I appreciate it. The previous presenter, Mr Caparelli, gave us a very detailed report and—

The Vice-Chair: What is the point of order?

Ms Harrington: I just wanted to let you know that it was impossible, as I am sure all of us would agree, to deal with all the information in it in the 10 minutes that we had. So I am wondering if it would be possible to refer this particular report to our ministry staff to have a look at and to bring back any comment they might have to us tomorrow. I found it very difficult to deal with in the short amount of time, and I do want to deal with it.

The Vice-Chair: Well, I agree with the suggestion. I think all members of the committee agree with the suggestion. I am just wondering whether the ministry can deal with it by tomorrow.

Ms Harrington: Well, they could at least read it and if they have a comment, get it to us.

The Vice-Chair: We could ask for their comments on the brief.

Mr Grandmaître: I think every presentation should be submitted to the minister.

1750

BAYSHORE TENANTS' ASSOCIATION

The Vice-Chair: The next presentation will be from the Bayshore Tenants' Association, John Wood.

Good afternoon, Mr Wood. You have been allocated 15 minutes by the committee to make your presentation. We always appreciate some time for questions and answers if that is possible. If you would introduce yourself and your organization, you may commence.

Mr Wood: Thank you very much. Mr Chairman, members of the committee, my name is John Wood. I am president of the Bayshore Tenants' Association.

Bill 121 has been introduced by the provincial government as proposed legislation to replace the Residential Rent Regulation Act of 1986. It is supposed to establish a permanent system of rent control. Since it is to be permanent, it is important that it should be well-thought-out in terms of its impact not only now but also in the years that lie ahead.

In the short time that has been allotted to me to speak I would like to express some of the concerns of the members of the Bayshore Tenants' Association. I will not comment on the bill in a clause-by-clause format as that would be very time-consuming. Rather, I will address selected issues from a broad perspective, emphasizing fundamental concepts rather than specific details. It is my hope, however, that consideration of these fundamental concepts will lead to changes in some of the specifics of Bill 121.

As mentioned, I am speaking to you as the representative of the Bayshore Tenants' Association. The points of view expressed will therefore reflect the thinking of tenants living in a very large residential complex owned and managed by a large, influential landlord, Minto Developments Inc, formerly known as Minto Management Ltd.

The residential complex to which I refer is known throughout the Ottawa area simply as Bayshore. Minto refers to it as the complete community. It consists of 10 apartment buildings containing 1,209 apartments, 332 garden homes and 654 town houses. There is a common playing ground, two schools, a common country club providing both indoor and outdoor recreational facilities. Its physical location is such that there are only three ways of entering it, one from Carling Avenue, one from Richmond Road and one from the Queensway via Bayshore Drive.

I have spent a little time in this brief description of Bayshore because I wish to discuss the concept of a residential complex as expressed in Bill 121 and hopefully establish the fact that Bayshore is a residential complex and should be treated as such in rent review decisions. This is an extremely important issue. It is vital that the definition in the act leave absolutely no room for misinterpretation by rent review officers or commissioners at the Rent Review Hearings Board.

I would like to speak about the concept of a residential complex. Bill 121 defines a residential complex, among other things, as a building or related group of buildings in which one or more rental units are located, or a related group of sites each of which is a rental unit. It includes all common areas and services and facilities available for the use of its residents. We are not certain that this definition is adequate for a large, integrated complex such as Bayshore or that it is sufficiently detailed to assure that rent review officers will not have any doubt as to its real intent.

We are therefore suggesting that the definition for a residential complex be reviewed by the experts and revised so as to leave no doubt as to its intent, and a visit to Bayshore may be of help if you have trouble visualizing this.

You may ask, why are we so concerned with this definition? I will try to explain. Bill 121 allows a landlord to apply for rent increases over and above the guideline for capital expenditures, subject to the 3% cap. Well, even with the 3% cap an increase of 8% to 9% is entirely possible. You have just announced the guideline increase for next year as 6% and if the landlord can get 3% on top of that my tenants will be looking at a 9% increase.

With rents already averaging $700 to $800 per month, an increase of that magnitude is significant, especially if you are a senior citizen with a fixed pension, or no pension at all except the old age pension, Canada pension and

some guaranteed income supplement. In a large complex such as Bayshore the 2% allowance for capital expenditures will be collected on all units in the complex. It is most unlikely that capital repairs would be done on all units in the complex every year. If the total amount collected each year is applied to the actual capital repairs done, it is unlikely that an increase above the guideline could ever be justified. But if the landlord is permitted to sever or unbundle the complex and argue that it actually is comprised of several smaller subcomplexes, then the 2% collected on a smaller subcomplex may not cover the capital repairs done on that subcomplex, and an increase in rent for the units in that subcomplex may appear to be justified. In the meantime, all the moneys collected on the rest of the complex are simply pocketed by the landlord.

The process I have just described could be repeated year after year. There would always be several applications before the rent review officers for increases above the guideline for a portion of the complete complex. Their workload would be needlessly high. Tenants would live in an unstable environment.

We suspect that this situation is just what Minto has in mind. They have been in the process of severing Bayshore for some time and, as of now, they seem to be succeeding. The situation should be studied in detail and Bill 121 should be worded to ensure that this is not allowed to happen; that is, if you agree with our reasoning. Bayshore was built as a single, large residential complex. It was originally managed that way. I have been living there since 1971 and I know. It should remain that way.

Now I would like to say a little bit about capital expenditures. Bill 121 proposes to add 2% to the calculated guideline increase to allow for capital expenditures, but it does not impose any controls on the portion of the money so collected. It simply says that a landlord must demonstrate that the 2% has been used for capital expenditures before any increase above the guideline related to capital expenditures will be permitted in any year. It is our view that this puts too much leniency in the act and opens up the whole question of interpretation by rent review officers once more. The bill makes provision for carry-forward of capital expenditures but does not appear to say anything about carry-forward of unspent funds collected in previous years for capital expenditures.

We are not convinced that an arbitrary percentage should be added to the guideline specifically for capital expenditures, but given that it is, we offer the opinion that money so collected should be segregated in the landlord's accounts and set aside in a special reserve fund to be used solely for capital expenditures. Funds should not be borrowed for capital expenditures unless this capital expenditure reserve fund has been depleted. The money in this reserve fund should be invested so that it earns interest from year to year.

This approach, combined with proper auditing of the accounts, should make it a lot easier for a rent review officer to ascertain if the 2% has been used for its intended purpose. It would also ensure that money collected from tenants for capital expenditures on the residential complex in which they reside is not used by the landlord to finance other ventures.

In a residential complex the size of Bayshore we feel that controls of this nature are absolutely essential. Furthermore, in calculating a permissible rent increase for capital expenditures, no increase should be allowed if the expenditures are fully covered by funds from the capital reserve fund, because that, after all, is their intended purpose.

We find it somewhat puzzling that in paragraph 20(5)1 permission seems to be given to calculate interest on a capital expenditure at prescribed rates, regardless of whether the expenditure is financed by borrowings, by the landlord's own funds or by both. It seems that a landlord, having been allowed to collect an additional 2% per annum, compounding, for capital expenditures is then to be allowed to collect interest on the expenditure. We hold the view that capital expenditures should be financed out of a capital reserve fund made up of the 2% bonus with interest.

1800

Bill 121 also makes transition provisions for capital expenditures. Forgive us for making the observation that these provisions appear to negate the effect of Bill 4. Minto has an application before the rent review services office in Ottawa requesting permission to raise rents by as much as 23%, based on capital expenditures made in Bayshore during the transition period. So this provision in the bill is of tremendous concern and importance to Bayshore tenants. We are under the impression that provisions in the Residential Rent Regulation Act and the Residential Tenancies Act include allowances for projected capital expenditures, but the entire process is so involved and complicated we have no way of determining just how much money Minto may have collected in previous years for capital expenditures in Bayshore, or whether the moneys collected were actually used for this stated purpose.

The Vice-Chair: If I could interrupt you; you can take a breath for just a moment. We have set up a speaker in the hall. If there are people who would like to be seated in the hall, they may do so. Maybe that will be more comfortable and a little less disconcerting to the proceedings of the committee. Unfortunately, we just cannot blow out the walls, so I guess this is the best option. I am sorry that we interrupted. Perhaps we could just take a minute or two so that anyone wishing to have a seat out in the hall could do so. I am sure you are finding this a little disconcerting, Mr Wood, but it might help.

Mr Wood: It disturbs the trend I am trying to establish.

The Vice-Chair: It was at the point that we could not hear you. I am sorry for the interruption, Mr Wood, but hopefully the room will be a little quieter now.

Mr Wood: I would like for you to adjust the sound system so there is no feedback, please.

I was speaking about the concept of placing more controls on moneys collected for capital expenditures, because quite frankly, we are not convinced that landlords are in a bind to find the money for doing capital repairs on their buildings. We heard all the arguments; we are not convinced. The point I am leading up to is to stop giving us

things based on estimates, averages, cost price index, building cost index; give us some facts and figures, file some statements of account, income statements and balance sheets and let us see some dollars. Let us see what your rate of return is and then maybe we will believe you, but right now, we are from Missouri.

It is clear that while they may have collected such moneys in the past, they now intend to collect them again, and Bill 121 will permit them to do that. We find this unreasonable and unfair. The role of government includes the responsibility to regulate and control. The transition provisions in Bill 121 should be re-examined and reconsidered.

We may have overlooked it—we are not experts, we do not have legal training or anything of this nature—but we have been unable to find any evidence that capital cost allowances permitted by the Income Tax Act have been taken into consideration in this whole process. We stand to be corrected on this point, but we would like somebody to investigate it and see that it has been taken into consideration. If you built something 20 years ago and you have been taking your capital cost allowance every year on your income tax return, then you should have some money to do some repairs.

It should also be noted that once an increase in rent is introduced, it elevates the base on which subsequent guideline increases are calculated. Even after the costs of capital improvements have been recovered by a landlord, the rent increase granted to cover those costs continues to compound. We consider this grossly unfair to tenants. I wish to stress this point.

Now, I never submitted it, but last year I prepared a paper to submit to rent review about Minto's increase for that 23% increase. I did a rather thorough financial analysis, and I can show you where, had they been allowed to get that 23%, they would have done handsomely well in comparison to an investment in the market at 11%.

My allocated time has just about expired and I have barely scratched the surface. In closing, allow me to say that the entire procedure involved in the Residential Rent Regulation Act, 1986, is too complex and complicated for the average tenant to comprehend. We had been hoping that the new act would have embodied a fresh and somewhat simpler approach. We find that it seems to perpetuate the existing system, with some modifications. We appreciate the cap that has been placed on rent increases, but note that rents will still be increasing in an ever upward spiral.

We appreciate the intent to enforce better maintenance, but we have some reservations about what will actually happen when the act becomes law and it is left to municipal authorities to enforce it. We believe there is still some room for improvement. We have taken the liberty of attaching an appendix with a few suggestions for changes we feel would be beneficial. Even if they cannot be implemented within the current time frame for having this bill enacted, we ask that they be given serious examination for possible future implementation.

Is it really necessary for you to do this while I am speaking, or are you deliberately trying to distract attention from my presentation?

The Vice-Chair: Mr Wood, if you would just please continue.

Mr Wood: We have taken the liberty of attaching an appendix with a few suggestions for changes that we feel would be beneficial. Even if they cannot be implemented within the current time frame for having this bill enacted, we ask that they be given serious examination for possible future implementation.

The inflationary effect of rents that continue to increase has to be slowed. In fact, the whole economic system needs a thorough examination to determine why we have to pay more and more for the same goods and services with no value added.

The next presentation is being given by the Federation of Ottawa-Carleton Tenants' Associations. The Bayshore Tenants' Association is a fully-paid-up member of the federation, and has endorsed its presentation. Many of the issues that I could not address for lack of time will be covered in that presentation that will be given by Dan McIntyre. Thank you very much for the opportunity to make this presentation, and for listening so patiently.

I did not read the appendix, because it does suggest some pretty radical changes in the approach to controlling rents. I doubt whether the government would be prepared to consider them now, but I wanted to get them before the government for consideration. If I have the time, I will read them for the benefit of the audience.

The Vice-Chair: Actually, you are a little bit over time at the moment, but if the committee wishes, you have been under a little bit of duress making this statement to us, and we can either have one question from each party, or you can finish what you wish to do.

Mr Abel: Finish, please.

Ms Poole: Mr Chair, I would very much like to ask Mr Wood some questions if he does not mind.

Mr Wood: I do not mind, but I would like to read this to finish the paper.

Ms Poole: I do not think the Chair will let us do both. Well, maybe I will have a chance to chat with you later, then.

Mr Wood: Sure, I am available. You can phone me, write me, I will come to Toronto, whatever you want me to do.

1810

Ms Poole: This will not be on the public record.

Mr Wood: The appendix says this: The rent control procedures, as presently defined in the RRRA, 1986, are too complex. They involve the use of several formulae, based on indices which are themselves the product of averages and estimates. Rent control procedures should be based on known facts and figures obtained from actual accounting statements filed by landlords wishing to raise rents. The following principles are suggested for study:

a) Tighten up the definitions in the act. They are too vague in many instances, and leave too much to the interpretation of rent review officers and officials sitting on rent review hearings panels.

b) Stimulate efficient and cost-effective management on the part of landlords by not permitting pass-through of costs incurred as the result of deliberate neglect, inefficient design, poor workmanship, lack of skilled and timely maintenance, and similar practices.

c) Reduce, or even eliminate, the use of indices such as the cost/price index, the residential complex cost index, the building operating cost index, etc. Base decisions on facts such as are embodied in actual audited financial statements.

d) Define, in the act, the accounting procedure that is to be used by landlords. Ensure that moneys collected for capital expenditures are segregated and kept in a capital expenditure reserve fund for the residential complex to which the fund applies.

e) Establish a maximum permissible rate of return on investment for the rental industry which takes into consideration the low risk involved; given that people must have shelter and vacancy rates are low, the market is virtually assured.

f) Specify that applications for rent increases are to be accompanied by an income statement, a balance sheet, and supporting financial statements, all duly audited.

g) Require full disclosure of all information needed to justify a rent increase. Increases which only increase the profit of the landlord beyond reason are inflationary and create financial hardship for many tenants. The landlord has to make a reasonable profit—that is an undisputed principle, we do not argue with that—but he has to do it not only by raising rents, but by efficient management as well. The act must not encourage persons to enter the rental industry expecting to finance their venture by exorbitant increases in rents.

Mr Duignan: A point of information, Mr Chairman: I was just wondering, on Mr Wood's presentation, maybe the ministry staff could answer this question. Would the Bayshore complex be considered a residential complex under Bill 121? Would you be able to answer that at this point?

Ms Parrish: That is indeed a very complex question. My understanding is that Bayshore was found to be a residential complex under the Residential Tenancies Act. Under the RRRA, the landlord can designate a complex, and there has been quite a bit of litigation, I understand, on this issue, and there was a decision of the hearings board which segregated part of Bayshore, as I understand, to various residential complexes.

The current statute does not have the approach in the RRRA designation. Mr Wood has made the point that we should look at the exact drafting as to how we drafted the term "residential complex" and how it would affect this kind of situation. I think his advice is well taken, and that we should go back and take a look at the exact drafting. What is in the statute now is not the same as what was in the RRRA, but there is sort of a homogenation of the RTC and the old act, so I think we need to look at the points he has to make about this.

Mr Duignan: And a final point of information: There is an item 3.5 that Mr Woods brought up in relation to the capital cost allowances. Would you be able to supply some information on that?

Ms Parrish: On the income tax and the capital cost allowance?

Mr Duignan: Yes, have they been taken into consideration in the process?

Ms Parrish: We do know what it is and we know that it exists, but it is not a deductible item, if that is what you mean. It is not deducted from rent increases, for instance.

Mr Duignan: Okay, maybe you could take a look at this point in the brief and get back to us with some information.

Ms Parrish: Yes, sir.

The Vice-Chair: Thank you.

The Vice-Chair: The next presentation will be from the Federation of Ottawa-Carleton Tenants' Associations, Dan McIntyre. Perhaps we could pause just for one moment while the room settles.

Clerk of the Committee: Two minutes.

The Vice-Chair: Two minutes. We will see if we can sort out some of the technical bugs we seem to have. The committee will recess just for two minutes.

FEDERATION OF OTTAWA-CARLETON TENANTS' ASSOCIATIONS

The Vice-Chair: The standing committee will come back to order. Good afternoon. The committee has allocated you one half-hour for your presentation. Would you begin by introducing yourselves for the purposes of Hansard and then begin your presentation. We would appreciate some time for conversation with you following your presentation.

Ms Keasey: My name is Marie Keasey. I am the chairperson of the Federation of Ottawa-Carleton Tenants' Associations. Sitting next to me is Mr Dan McIntyre, who is the executive director of the federation, and he will be presenting our brief this evening.

The federation represents over 40 tenant associations in the Ottawa-Carleton region. On August 15 we held a general meeting and most of those 40 associations were represented. At that meeting we discussed the brief; there was quite a lengthy discussion, as a matter of fact. That brief was approved unanimously in principle, and that is the brief that is being presented tonight.

Mr McIntyre: I will go through the brief. I am hopefully going to take about 15 minutes, to allow time for questions at the end.

In general, Bill 121, the proposed Rent Control Act, is the best permanent rent act this province has ever had, although it is far from the best possible legislation. There are several flaws that require substantial amendments.

The changes we seek will not violate the principles of the bill but will make it more fair, more practical, more explainable, and more in line with what tenants should expect from this government and this Legislature. Specific amendments have been appended to the brief, 41 in all.

We are following the order of the brief and I am going to be skipping some parts for time.

Maximum rent: Under the RRRA, the concept of maximum legal rent was initiated. This meant that a landlord who had not taken all the generous rent increases he was allowed could catch up and take a big rent increase without any application any time in the future. This bill continues this provision.

Because of the rate of return allowances in the RRRA, the maximum legal rent would often be set well above what the landlord could reasonably charge for the units. At any time, tenants in these units could face massive increases. This directly contradicts the statement of this government that "no tenant will face a increase of more than 3% above the guideline."

Tenants in these units are deterred from seeking their rights, as a landlord can execute an economic eviction by simply using the maximum rent provision.

We prefer the approach of the Residential Tenancies Act where the actual rent was the legal rent, provided it was in fact legal.

1820

Residential complex: Mr Wood put it beautifully. I have worked with their group for a number of years. In fact, I used to be part of the Bayshore Tenants' Association. This definition is subject to abuse, and a decision of the board last week causes greater concern on this entire issue. But the government should be concerned about it as well, because if complexes are allowed to be severed what you will have is multiple applications where you previously would only have one. Think of the workload that is going to create on the ministry, think of the confusion, think of the difficulty in tenants responding to this, given minimal resources on our part.

It goes against public policy because it creates more work rather than less, and it deals with a situation where the landlord can simply cherry-pick which complex he wants to define. That is it for that week, and that is the one that gets the rent increase. Everyone else, he pockets the money.

The other thing is, if you are going to stick with this split guideline—we will get on to that later—and if a landlord owns two fourplexes side by side, which rules apply?

Social housing exemption: We believe that more aspects of rent control should apply to public housing, period—maintenance provisions, once-in-12-month provisions, rules of that nature. It is unfair to exclude people.

The five-year exemption: We would not have a major problem with the five-year exemption on new complexes if there was provision for review of an increase more than 3% above the guideline in the last two years of the exemption, if the maintenance provisions of the act applied to these complexes, and if the question of maximum rent was addressed.

The guideline—big issue: Just like the RRRA, the proposed guideline formulae are flawed and a continuing cancer on affordability. Both acts give landlords an extra 2% increase each year built into the guideline. This act assumes that this 2% compounding increase will be spent on capital. That is a large and untenable assumption.

This act forgets a number of things that go into the guideline discussion. They are all listed in the brief—to save time, I will not enumerate them now—including the fact that when I was on the Rent Review Advisory Committee in 1986 that was the first item I dissented from in that report. By the way, no tenants I know of support the RRAC agreement.

If this government would want to take the approach of a clean sheet to forget the past, even as tenants pay for that every day—we will be turning over $670 million on 1 September, the end of this week, to landlords and $8 billion across the province—you should recognize that the 1992 guideline announced last week contains the same 2% bonus provision, and you should recognize it is not allocated to any cost. If you continue with this system, then in 1993 you add another 2%, what you should recognize is that 4% has newly been built into the rents for capital, and in 1994 it would be 6%. That is forgetting the 13% built up under the RRRA, which we dealt with in Bill 4.

We call on the government to end this 2% compounding and unfair giveaway by the end of 1994. A simple sunset provision is required to section 12 of the act. I want to tell you, I think I am a pretty tough tenant advocate, but my members are telling us that we are too soft on this point. Enough was enough in 1989 when the guideline was supposed to be reviewed, but please, not forevermore.

It should be noted that by the end of 1991 tenants will be making an annual contribution of over $400 million for capital works within current rents because of the residential complex cost index formula. By the end of 1994 this will be $900 million, and this does not take into account another $400 million which is completely unallocated rent built up from the RCCI formula.

We also disagree with the split guideline provisions between small and large complexes. First, it needlessly complicates things. Second, we see no evidence that a small landlord has more per-unit operating costs. These buildings have no superintendents, no elevators, and they do not pay municipal tax at the multi-residential rate.

Finally, the government must educate the public about the 2% giveaway, must put the facts on the table and on the record as to where that money is, where it is going, and why it is already covering substantial amounts of money for capital works currently.

Landlord applications for bigger rent increases: First, it should be recognized and stated that the limitation for extra rent increases to extraordinary cost increases in matters beyond control, to necessary capital costs and to a limit of 3% over the guideline is vastly superior to the RRRA. It is unfortunate, however, that the government missed out on an opportunity to bring in an even more superior system based on a capital reserve. Tenant organizations from around the province showed you how that could work.

It is also unfortunate that there are significant problems with the system chosen by the government.

Extraordinary cost changes: I am going to cut a lot of this. There are some problems here in Ottawa. We already went through market value reassessment and what happened is, every landlord who had an increase went to rent review and got a rent increase. Those who got a decrease

put it in their pockets. So we would like to see you deal with that concern going back to 1987.

Capital cost: First, necessity. It is supportable that capital cost allowances are limited to necessary expenditures. The defining of this in section 15 would appear to be left to some discretion. We hope that rent officers will be people committed to rent control and to the retaining of affordable rental stock.

We also applaud the dropping of the onerous requirement for a tenant to prove ongoing deliberate neglect, as that rendered the concept of neglect useless. It is the landlord who seeks the benefit of a rent increase; the landlord must prove that it is merited under all the circumstances.

Bill 4 renegation; we use that word deliberately. This act will allow landlords who completed capital works between January 1, 1990, and June 6, 1991, to claim these expenditures under this act. These were works done under the so-called Bill 4 period. Bill 4 told tenants and landlords that enough was enough and that there would be no further allowance for these works. Bill 4 got the landlord lobby all worked up. They paraded a few hardship cases before this committee and before the minister. This provision in this act means that that landlord lobby paid off and tenants will have to pay for it.

There are about 5,000 units in Ottawa-Carleton which were saved by Bill 4 from paying larger-than-guideline increases. All of these tenants will now face these increases again upon proclamation of the act. These tenants, like thousands of others around the province, will be very angry when confronted with these applications. There will also be an instant backlog at the rent increase office.

But what about the hardship of landlords caused by Bill 4? Nonsense. The landlords that make up the vast majority of the 5,000 units in our area include landlords like Minto, Urbandale, Levinson-Viner, etc. These capital costs were paid for out of retained earnings and can be demonstrably shown to be paid for out of built-up rents from the generosities of the previous laws. If Bill 4 caused any legitimate hardship on landlords, let them make application based on that hardship and let us look at it in a fair way there. Instead, Bill 121, unless amended, will simply make the rich richer.

Interest on capital expenditures: Mr Wood touched on this very well as well. The RRRA was exceedingly generous, particularly in situations where capital was financed from existing rents and retained earnings. Interest may not be necessary when you take into account the compounding effect of rent increases. It becomes even more grievous if a proper costs-no-longer-borne system is not implemented.

Useful life periods was another bad part of the RRRA and that looks like it could be continued. No regard has been had for the actual history in buildings, and there was a blind acceptance of industry-produced "useful life periods" which favoured the industry.

Costs no longer borne: Some of us Elinor Mahoneys here have gotten grey hairs on this one over the years. Any system that does not automatically take past increases out of the rent when the triggering cost has been fully recovered is unfair. The case for costs no longer borne has been made by tenants over the years, and it should be beyond doubt that costs no longer borne are automatically out of the rent. There is no argument to the contrary.

I might also add, our members reminded us of interest costs that have been added into rent that are no longer borne as well, and they are not coming out of the rents either.

Carry-forwards: The provision of carrying forward will lead to consulting practices on timing and costing of capital expenditures so as to maximize rent increase awards. These carry-forwards add needless confusion. Yes, tenants are only exposed to an increase 3% above the generous guideline, but it is constant and perennial exposure.

The extra phase-in year for small buildings is again unsupportable on the facts and is also needlessly more confusing. Make the cap real—no phase-ins, no carry-forwards.

1830

Maintenance requirements: The government is to be commended for bringing in a system that ties rent increases to the adequacy of maintenance. For years, tenants were faced with a double whammy: more rent, less maintenance. This act sends a clear message that maintenance is a critical component of rent.

One landlord appeared before this committee—you all know who it was—and suggested that landlords will not apply for rent increases because they will then have their maintenance scrutinized and that may lead to a rent decrease. We sure hope he is right.

There are significant concerns of implementation of these stronger maintenance provisions. One is a recurring concern dealing with the type of people who will be deciding rent increases. There is much room for discretion, and people are required who will take a strong stand in making the maintenance sections of this act meaningful and real. Another concern is that landlords may cut back on maintenance immediately after they get their rent increase. Another concern is the frequent reluctance of property standards officers to issue work orders. Finally, there is an outstanding concern in the city of Nepean that some people find themselves in an undesignated area and are not covered.

Illegal rents: another one that tenant advocates have got grey hairs over. They are still with us. We support the increased maximum rebate in this bill to $5,000, although we prefer there be no limit at all. We also support the attachment of interest to illegal-rent rebates.

One serious difficulty does remain. Tenants can recover rebates by deducting the moneys from the rent unless there is a new landlord. This protection for new landlords is unnecessary, and we go into a number of ways that their interests can be protected.

Adding or discontinuing services: This is one of those things you read and it looks real fair until you realize what you are saying is the landlord and the tenant have to agree. So a senior citizen decides that he can no longer afford a car or does not want to drive a car or wants to be energy-efficient or better for the environment. He wants to take public transit. He goes to his landlord and says, "Can we agree to give up my parking space?" "No, we don't agree. Keep paying for it forevermore." Parking should be

discontinuable upon proper notice, similar to notice on the unit itself under the Landlord and Tenant Act.

Rent determination and the right to a hearing: The applicant can ask for a hearing at the time of making the application, but respondents only have 15 days to notify, in writing, that they want to exercise their rights to a hearing. The clear consensus of tenants is that a hearing is preferable. However, with only 15 days to make a decision, tenants will have to automatically demand a hearing as there is inadequate time to determine if a hearing is unnecessary based on the application.

We call for a 30-day provision that would make that more workable, and again we are calling for a high quality of people who will be making these rent determinations. There must be a commitment to rent control, not rent increases.

Appeals: It is a little scary that the only avenue of appeal is to the courts. We have come up with the suggestion that there can be appeals to the director of rent control based on an issue. I think what the government wants to do is get rid of appeals where it is whether the landlord spent $8,000 or $8,100 and it just clogs up the system. But if there is an issue, deal with it.

I am going to skip over the rent registry, because that makes me older too, and just finish up by talking about the fact that there are 41 matters to be prescribed under the bill. That is a lot. The RRRA had 43, and the regulations killed us in that particular act.

Again, we would call for the appointment of directors of rent control who are dedicated to the right principles. We also commend the beefing up of the tenant organizing sections, and we finish with a call for licensing landlords, which we have called for before.

Attached to our brief, in our attempts to bring about a law that we all can take pride in, that will be permanent, that will be something that we can live with for a number of years, we also attach our Bill 4 presentation because it has some workups on what happens with rents, and a clause-by-clause analysis on each and every clause, with 41 suggested amendments that would make this bill a better bill.

We hope the Legislature will deal with those and come up with the best rent control bill possible. Tenants need it. We deserve it.

Ms Poole: Thank you for your presentation today, and particularly for all the work you put into possible amendments. I have about three hours' worth of questions. I will try to compress them.

First of all, cost no longer borne: Under Bill 4, the Liberals produced an amendment on cost no longer borne which the ministry rejected, saying it would look at it for long-term legislation. Under Bill 121, it was not in there. On August 1, I tabled a request to the ministry to give an explanation of why not. Yesterday I got the explanation that it was too complex, that they could not figure it out.

My submission is that in this day of computerization, there should be absolutely no reason why at the time the rent officer makes the order they cannot have it on the computer to automatically notify tenants 10 years hence that their rent will be reduced by a certain amount.

Can you comment?

Mr McIntyre: There is an old expression: Give a monkey a typewriter and an eternity, and eventually it will write a novel. Give me three hours with a bureaucrat and we will figure it out. It can be done.

Ms Poole: I will pass that invitation on to the ministry. Mr McIntyre is going to solve your problems.

Second, the split guideline: I agree wholeheartedly with you, and I think virtually every presentation we have had has supported that it makes no sense to differentiate. Do you have a suggestion for that guideline, what it would be?

Mr McIntyre: Our position on this has been consistent, going back to 1985. The guideline has to be a percentage of inflation, somewhat higher than the part of an operating cost compared to rent. Right now it costs about 50 cents on the dollar to operate a rental property, so it has to be slightly higher than that. Two thirds can work, but we can only deal with that if you get rid of the 2%, because otherwise you are just adding a high guideline.

That is the real problem in the RCCI formula. That is what we have been saying since 1986; it is a 2% giveaway. They should be equalized, perhaps at 60%, but I am not giving you a figure on that. It is a contingency kind of recommendation based on getting rid of the 2% compounding.

Ms Poole: Your comments on hearings and the right of appeal are well taken. Fifteen days simply is not adequate to allow tenants to have an opportunity to indicate they want a hearing. But I would like to ask you about the right of appeal.

I was somewhat surprised that you were suggesting an appeal to the director of rent control rather than an independent body. I think that is the first suggestion we have had along that line. Everybody else seemed to distrust the rent review bureaucrats and would like to really get an independent opinion on appeal.

Can you comment, or is this again a compromise where you think this might be what the government would accept?

Mr McIntyre: I took some of the minister's comments to heart—the previous minister, that is—when he suggested that they would entertain changes to the bill but not changes to the principle. If the principle is to get rid of an appeal mechanism, I think we have come up with a way that would be better than what they have done.

In a perfect system, frankly, we would have a capital reserve, one guideline and no rent increases above the guideline; then we do not have any problem whatsoever. But if we are going to go to a system that does allow landlords some increases over the guideline, there ought to be an ability to review that without the onerous provisions of going to court.

The Bayshore association was involved in a court case that cost thousands of dollars in legal costs and everything else. It is just an onerous process for tenants to go through.

If that sort of comes down the middle, well, sometimes we can think of compromises. We are open on that.

Mr Tilson: I thank you for your presentation and also for giving us your presentation in advance in Toronto. I am sure all of us will be looking at your organization's recommendations. I notice that you did attend a number of the hearings in Toronto, and of course have had some experience in rent review and rent control.

The question I have for you is, having heard submissions as to how rent control has failed in other jurisdictions—Sweden, New York, many of the American jurisdictions, England—I assume you would acknowledge that one of the solutions would be to encourage more housing to be built to build a greater supply.

1840

Mr McIntyre: I do.

Mr Tilson: I assumed that.

Mr McIntyre: Non-profit housing, residential intensification; there are a number of ways to do it.

Mr Tilson: Would you encourage private enterprise at this particular time, with this particular bill, to get into the market of building new housing for rental accommodation?

Mr McIntyre: You cannot write a rent regulation law when you cannot deregulate rents, and you cannot take any action that will spur private-sector developers to put housing for profit on the rental market because it simply costs far too much to put the product in the ground. They cannot gain a rent that would gain them an adequate rate of return. The issue of regulation is moot.

The issue of regulation is, how do you treat tenants fairly who live in apartment buildings, who have a certain set of expectations of fairness? How do you protect them from losing substantial ground on their ability to keep a roof over their heads and a reasonable quality of life?

I might say, in terms of your study, you had Professor Hulchanski come before you yesterday who also showed that removing rent controls does not work. And there are several studies—and one of the members here alluded to them—in the United States showing very little difference between regulated and unregulated markets in terms of supply-side issues.

There is conflicting evidence. Most of the evidence on the decontrol side is produced by those who would profit by decontrol.

Mr Tilson: Why then is no new housing being built?

Mr McIntyre: Because it costs too much money to do it and get a rate of return. You can build condos and get an immediate rate of return. You can build family housing for ownership and get a rate of return. The other problem we have, and I do not think this has been touched on here, is that we have a lot of underutilized housing. Municipalities should be intensifying the use of existing housing to create more rental stock. But that is a municipal issue, unfortunately.

Mr Mammoliti: Thank you very much for coming out. I cannot agree with you more. Tenants do deserve a good piece of legislation, and we intend to deliver.

There was a statement you made that I can agree with you on as well. It was near the close of your remarks. "More rent, less maintenance." I can tell you about that in my riding. It happens. It has been happening, and even with the Liberal rent review, heaven-sent legislation for landlords, which existed prior to Bill 4. With all the profit that landlords are making they still neglected the needs of the tenants.

Mr McIntyre: I do not want to paint with broad brushes here. There are two ways to increase your profits: One is, you increase your rents; the other is, you decrease your cost. Every business will do whatever it can to pursue that interest. So if they can get away with it, if there are not adequate sanctions—and this frankly where this bill does a lot more, although I think—

Mr Mammoliti: As you know, we have addressed the work order issue and we have addressed the fact that landlords will no longer be able to apply for an increase unless those work orders are completed, through Bill 121, yet the landlords have been coming in front of us and actually accusing the tenants of breaking things in their units and destroying their units to not be subject to an increase in their rents.

Mr McIntyre: Do any of these people look like they would destroy property?

Mr Mammoliti: I have been asking this question—

The Vice-Chair: Mr Mammoliti, just for your information, you have two colleagues.

Mr Mammoliti: Yes, thank you.

I have been asking this question in almost every city I have been in. What do the people of Ottawa have to say to those landlords who are accusing them of this?

Mr McIntyre: It is a scurrilous thing, but I think what tenants need is an ability to enforce their maintenance rights based on the principle that current rents clearly pay for maintenance. And if you pay for something, you ought to get it, and the laws of this land ought to ensure that.

Mr Perruzza: I do not think I am going to get my questions off. I will try, but first of all, I would like to take this opportunity, and I think I speak for all members of the committee, to thank the Honourable Evelyn Gigantes, who has taken the time out of her busy schedule. I know that she is a newly appointed minister and there is a lot to catch up on. She is sitting on our hard floor and has listened to all parties present their case, and I would like to thank her on behalf of the committee.

I will allow Margaret to have the remainder of the time.

Ms Harrington: I just want to assure you that all the things you have mentioned will be taken into consideration. As I have said to every other group, the reason we are here is to look at amending the bill to make it the best possible bill. I will not go into details on that.

The transition time: This is a problem. How would you recommend dealing with small landlords who do have a

hardship case? They have bought in an inflated market. What would you suggest?

Mr McIntyre: What has happened over the last few years is landlords have voluntarily purchased properties where they could simply add up the cost of running that property, the current rents and the cost of financing, and they knew before they signed on the dotted line they would be losing money. What they expected was there would be an ability to raise rents as much as they would take so they would make money. That was allowed under the previous law and it was wrong under the previous law.

It does leave some people in a spot, does it not? But the answer to it is not raising the rents of the people of Ottawa and throughout Ontario to pay for that error, no matter how honestly committed, but to look for more creative solutions, including—let's take a look at how these projects are financed and how well the financiers are doing on the deal. Let's see if we can get them in a partnership.

Again, frankly, that is—I do not want to say it is not my problem. I am happy to try to address it with one and all, but clearly the answer is not to make tenants pay more rent and get nothing for it.

The Vice-Chair: Thank you very much for coming before the committee today. We appreciate your presentation.

The committee adjourned at 1847.

CONTENTS

Wednesday 28 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1559
Levinson-Viner Ltd G-1559
Seigniory Tenants Association G-1561
Clinique Juridique Stormont, Dundas and Glengarry Legal Clinic G-1563
Lexington Tenants Association G-1566
Ottawa Region Landlords' Association G-1568
Housing Help G-1570
Minto Tenants' Association, Parkwood Hills and Navaho Place G-1572
Minto Developments Inc G-1574
Regional Group of Companies Inc G-1576
John Dickie G-1578
Urbandale Realty Corp Ltd G-1580
Social Planning Council of Ottawa-Carleton G-1582
Eastern Ontario Landlord Organization G-1585
Craig Henry Tenants Association G-1587
Bayshore Tenants' Association G-1588
Federation of Ottawa-Carleton Tenants' Associations G-1591

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Thursday 29 August 1991

Standing committee on general government

Rent Control Act, 1991

Chair: Remo Mancini
Clerk: Deborah Deller

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le jeudi 29 août 1991

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Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325–7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 29 August 1991

The committee met at 1001 in the Ramada Inn, Kingston.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Vice-Chair: Good morning. The standing committee on general government will come to order. The purpose of the committee is to hear public presentations on Bill 121. I would assure members that the bells that were going early this morning were not division bells and that the Chair was not responsible.

UNITED TENANTS OF ONTARIO

The Vice-Chair: Our first presentation is from the United Tenants of Ontario, Mary Garrett and Ted Starr. If you would introduce yourselves for the purposes of Hansard; you have 15 minutes to make your presentation.

Mr Starr: My name is Ted Starr. On my immediate left is Mary Garrett. She is from Ottawa and is co-chair of the United Tenants of Ontario. On her left is Dan McIntyre, a council member from Ottawa. On my immediate right is Rick Desormeaux, who is also a co-chair of the United Tenants, and he is from Sudbury.

I should explain that our full name is United Tenants of Ontario. We are commonly called and referred to as UTOO. I should maybe give a little background. I am on the provincial council. I am also the recording secretary and therefore on the executive of UTOO. I reside in Mariposa township near Lindsay, which is Victoria-Haliburton riding. In our presentation today I will be giving a brief overview of UTOO, then Mary will be addressing the issues raised as we see it in Bill 121 as it is presently drafted, then I will be making some concluding remarks and then we will be ready to answer any questions. I trust that will be acceptable to the committee. We have tried to time it so we have time for all of those things and we will see what we can do.

By way of background, for many years the tenants and tenant advocates across Ontario have felt a need to work together on common issues and share information on common problems. In 1989 around 200 tenants and advocates met in Hamilton and agreed to form a province-wide organization and they called it the United Tenants of Ontario, or more familiarly UTOO. In 1990 we had another annual meeting and a training conference at Waterloo, at which time we met with the then Minister of Housing, John Sweeney, and the then opposition leader, Bob Rae, who had addressed us at our dinner meeting.

In 1991 our annual meeting and training conference was in Ottawa, and I should point out that the annual meeting takes about three hours of three days. The rest is training and it is really quite informative when you meet tenants from across the province and you find out that no matter how different your areas are, there is a commonality there. In 1992 we are planning to have our annual meeting and training conference in Sudbury.

From 1989 to date, UTOO has participated in a number of forums and discussions and events across the province. Prior to the change in government we had started a tenant inquiry to investigate the problems of tenants. Because of the rapid change in legislation, we have now refocused that to be concerned right now about rent controls.

I should point out that at the 1991 conference the then Minister of Housing, Dave Cooke, informed us that we were being granted $210,000 for the year for our operating budget, and as a result we are now in a position where we can really get heavily involved in defining our role and starting to figure out what our mandate is. We have provided you with copies of our preamble and statement of purpose from our constitution and that is a pretty good outline. I think the best way of saying it is that across Ontario certain areas have tenants' federations and they are very well organized, very active. There are a lot of other areas with less active tenant federations and some areas where tenants feel they are in the wilderness and by themselves. Our role as we see it with UTOO is to help organize the unorganized tenants in the province and to provide sort of a co-ordinating body for tenants across the province.

As I mentioned earlier, we have always been very conscious of the physical and often emotional separation that tenants feel across this province, but we also recognize that there is a great similarity in the problems. I believe it has been said that what we are trying to do is help tenants talk with their many voices in a united way. I do not want to see UTOO taken as being the only voice of tenants. We have purposely organized ourselves in such a way that we do not provide necessarily a single voice, because there are too many variations. In this respect we have organized ourselves into five regions and from the five regions 21 council members are chosen at the annual meeting. They are not necessarily just chosen from their region; there is a vote by all the members there.

I should also point out that our policies are for the most part based on consensus. Although they may be passed by a majority vote, I think I can say that we spend a lot of time getting something everyone can agree to. We do not usually have much disagreement once the policy is in place. In particular, our presentation on Bill 121 is based on a consensus that was reached at the provincial council meeting we held in Kingston last weekend. At that time we also held a special meeting on Bill 121 and it was attended

by a number of tenants from the Kingston area. Some of them are here today.

I should point out that while I was asked to help with this presentation today, I am not the only spokesperson for UTOO on this issue. In fact, I am only here for the background material. We do not believe that one person can solely represent the tenants of Ontario. I should point out that Rick and Mary, who are with me today, are both co-chairs. We in fact have three co-chairs. We do not have one head of the organization; we have three. One is in Sudbury, one is in Ottawa and one is in Toronto. We very purposely structured ourselves that way because we think that tenants need more than one voice. So at that point I think I will pass it over to Mary. She is going to discuss our views on Bill 121 more directly.

Ms Garrett: My presentation is in the packet that I believe you have received from us. I just wanted to make one comment to what Ted was saying about the government so generously giving us $210,000 to operate. We acknowledge and thank the government; that is six cents per tenant, in the true perspective of reality.

Tenant representation has been made in Toronto, Sudbury, Hamilton, London, Windsor, Ottawa and now in Kingston. These presentations have been made by tenant federations, tenant associations, legal clinics, tenant advocacy groups, including Housing Help in Guelph and Ottawa, homeless groups in Windsor and individual tenants. We express our deep pride in the efforts that all of these tenant groups have put forward. We now take the formal opportunity to support the tenants' representations that have been put before you in these hearings. We would have you note that in all of these presentations the tenants have called for a better, true rent control system.

What is a true rent control system? A system that we the tenants could support. We the tenants of Ontario would support a system that ends cost pass-throughs, a system in favour of a capital reserve system. If, after our concerns are heard, there is still a cost pass-through system, there should be no phase-ins or carry-forwards. We would support the lowering of the guideline percentage to get rid of the 2% bonus given away and compounded each year. We would support a system that takes costs no longer borne out of the rents. We would support a system that contains a working rent registry for all tenants.

We would support a system that uses the actual rents, if they are legal rents, for the determining of any rent increases. We would support a system that is simpler than the existing system, one that would allow both tenants and landlords a better chance of understanding the rules and the process. We would support a system that provides a fair hearing process. We can support a system that has universal rules for all tenants and landlords.

1010

We believe that for this system or any system involving the business of landlording to work properly, landlords must be licensed so that the system can better ensure co-operation of all landlords.

We would draw your attention to the fact that Bill 121 deals with more than the matter of rent increases. It deals with property standards and maintenance. It includes hov many rent increases shall be allowed in a year. While thes concerns affect all tenants, this legislation excludes tenant who can and should be included in these protections.

We are concerned that tenants of the Ontario govern ment living in public housing are not protected in thi legislation, although they can suffer rent increases as hig as 107% simply because of an OHC policy change and no the result of change of income.

I would like to point out that in my job that I get paid for as a legal worker in a clinic, I had a gentleman who had immigrated to this country 11 years ago come into my office. He was sponsored by his son originally. He got permission from immigration to stop that sponsorship in 1982. He moved into public housing in Ottawa in 1988, paying a rent based on his family benefits income that he receives from the provincial government. He had just received a notice of rent increase for 121% because the local office decided that he should still be sponsored and they were going to base his rent increase on the income as if he were sponsored. There is no protection in this legislation for that kind of situation.

We are concerned that tenants in non-profits and co-operatives are not protected by this legislation. It provides discrepancies as to its effect on tenants in small buildings who would be expected to pay higher rents even though they would not expect to receive the same amenities as if they were living in a larger complex that would contain recreational services, elevators and such. It discriminates against tenants in smaller communities who would have either no or less effective property standard bylaws.

We the tenants in Ontario can support a true rent control system. That is a system that controls the rents and is not just a more limited rent review system. We support a system that treats all tenants equally, no matter who the landlord is, whether the landlord has two units or 1,000 units, or if the landlord is a private entrepreneur, the government or a community group.

The Vice-Chair: There are three minutes.

Mr Starr: Okay. Then what I will do is I will hit the headlines, shall we say.

First of all, we want to make sure that the committee understands that tenant problems are province-wide. There are only variations in detail, not variations in major components.

Second, we feel that the tenant problems are made worse by things such as complex legislation, especially when we have a suspicion that complexity is really a disguise for unfairness, especially for tenants. We are also concerned that there is a lack of services for tenants.

In the riding of Victoria-Haliburton there is no legal aid clinic. There is no one who can effectively represent tenants. The private bar, through the legal aid system, does not handle it very often, if at all.

Many communities are very isolated. One of our council members is from Thunder Bay. He feels out of it. He feels a lack of information. He cannot go down to the government bookstore. If he is feeling that way, what happens with somebody from Sioux Lookout?

Third, tenants have to face real income issues. Our incomes are going down and for many ways. I do not need to elaborate. There are the taxes, the recession and so on.

Fourth, tenants have concerns about this committee's consultative process. Many individual tenants are very uncomfortable with it or scared of reprisals. They are afraid their landlord is going to get rid of them if they speak up. In areas such as the one I come from, there is not much help for them unless they can afford to have a lawyer, and that is pretty rare.

We are also concerned that this process is being rushed more than it needs to be. Because in our case we have got 21 members from across the province, it is very hard and very expensive to get everybody together. It is a very detailed piece of legislation. We just have not had time to properly respond.

Also, we are really concerned that all tenants have not had access to the committee. We understand that the hearings are during the daytime only. Most tenants are working during the day and cannot attend. We are really concerned that the committee does not go north of Sudbury, and there is a lot of Ontario north of Sudbury. I believe it is 12 hours by bus to Thunder Bay.

Fifth, there is a real, growing affordability problem for tenants because of the results of the past legislation and the current legislation and the rents that are a result of it. There have been cost increases that have been accumulating at compound interest. You hear everybody saying how great compound interest is. It is great if it is on your savings; it is terrible if it is on your rent.

Sixth, we are concerned with the affordability of the housing stock for future tenants, because as tenants' incomes have been ignored in the whole process and it only focuses on the landlords' expenses, tenants get left behind. We are way behind the cost of living.

To summarize, what we want is a system of real rent control, not a complex legislative escalation of rents, because remember, we are talking about our homes, not just somebody's investments. Really, I think it is time we now followed on housing the example we have used in this country on education and health care. They are rights. They are not something for somebody to make a fast buck on.

The Vice-Chair: Thank you, Mr Starr, for appearing today before us. We appreciate that.

PETER G. DAVY

The Vice-Chair: The next presentation will be from Mr Peter Davy. While Mr Davy is coming up, I will take the opportunity to point out to committee members that on your schedule Midge Rouse is at 11:45. It says that presentation is cancelled. That is incorrect; she will be here. Mr Davy has approached the Chair and pointed out that it would be helpful to him if, when it is time for questions, the members would give the question to him in writing.

Mr Davy: I have to begin my comments by saying I am fundamentally opposed to rent controls. They are restrictive, counterproductive and of course totally discriminatory and unfair. While shelter is a fundamental need, so of course are food and clothing. Yet neither of these commodities is cost-controlled. The butcher, the shoemaker, the clothing merchant are not forced to sell their products at "affordable prices," although it would be very nice indeed if we could buy these items at bargain prices.

The landlord is forced to provide accommodation at prices mostly below market to people who, in many cases, could well afford to pay the market price. We are very sensitively aware that there are many people who are having real problems financially. There is no question about this. To answer this particular problem, we think a subsidy system would definitely be appropriate for those people who need help paying the rent.

It is important that we understand what really caused rent controls. They were introduced some 15 years ago by a Conservative government acting on political expediency, knowing full well, as does anybody else who has done any investigating into the matter at all, that rent controls have caused far more problems than they have solved. Each ensuing government has perceived an equal political expediency and has propagated this debilitating legislation to the present time. Nobody has had the courage of the little boy in Andersen's fairy tale about the emperor's new clothes to say, "Hey, the king has no clothes on." This is ridiculous legislation. In other words, let's get rid of it.

However, reality dictates that I must face it. Accordingly, I can only make suggestions that hopefully will make bad legislation less bad. The New Democratic Party has presented itself as wanting to be fair in its approach to governing and when this government was elected it said it would meet with all interested parties to a matter and hear all sides in order to come up with legislation which would be fair to all. It is hoped that this forum today is in fact for this purpose and that justice will indeed be done and not just be seen to be done.

1020

While I find much in the proposed legislation to be objectionable, it is difficult in this kind of a gathering to do a clause-by-clause study or discussion of it, so I will simply to try to refer to some specific problem areas.

One of the major complaints of both tenants and landlords about the existing legislation is that it has been too complicated. This government said it would bring in a new bill that would be much simpler for all. Bill 121 in no way meets that criterion. It is not simple; it is very complicated. If we are to have rent control legislation, then it must indeed be simple and workable for all involved.

As a prerequisite to this, I suggest that there be absolutely no retroactive implications. This bill should start no earlier than the date this present government came into power. Whatever was done or arranged to be done and rent increases granted before the election and under the previous legislation should be left to stand. To do otherwise is most unfair and unreasonable. It would be like arresting a person now for drinking 17 years ago at age 18 while the legal drinking age now is 19. It was legal then, but it is not now. You have to be 19. How can we do that?

This should also apply to legalizing all present rents. Rent controls have been in place since 1976 and there have been many and complex changes to the legislation over the years. Why not consider starting with a clean sheet of paper that says that the rents currently stated as the maximum

rent or the rents being charged as of October 1, 1990, are legal and go from there? Call this an amnesty, if you wish, but I would call it real initiative and progress and indicative of this government's desire to in fact bring in enlightened legislation. There may well be some rents out there that are illegal, but there would be few of them, very few, so few that it would seem a fresh start would be worth much more in the benefits it would create in goodwill and forward thinking.

Several points in the proposed legislation are of particular concern. Among them are the several sections dealing with limiting or capping of the allowable increase in rent irrespective of costs or capital improvements. Many landlords are faced with extraordinary costs from various causes—taxes, PUC, sudden repairs, etc—that can often run into thousands of dollars. To simply cap the amount of rent increase beyond the guideline is just not fair.

Incidentally, we keep referring to rent increases in terms of percentage, which I consider most unreasonable and unrealistic. I have been in contact with tenants who are living in beautiful one-bedroom apartments and are paying $200 a month because their rents were never raised prior to rent control. Now they are stuck with a low rent. If you raise that rent to $400, that is a 100% increase, but it is still a cheap rent for that accommodation. I think we have to get a handle on this percentage of increase. It is not really relevant always.

Many landlords just cannot absorb these extra costs. Also, in the case of capital improvements, many buildings are old and wearing out and have to be upgraded. It is true, you can keep patching and piecing, but that does not make economic sense. It is also true that the old, beat-up kitchen cupboards can be repainted time and time again, and they will still hold cereal boxes, but any prudent landlord would know that is not good building management, nor is it good customer relations.

I think it is important, again, to realize that landlords are business people and tenants are our customers. We resent very much this confrontational thing. We do not want vacancies. We want to be on good terms with our tenants. They pay us good money, they pay good rent and they are entitled to services. They are our customers. We want to keep the buildings up for their sake, not just to get more rent. We want to keep them happy. New cupboards and countertops have to be installed to keep the building viable and to give the tenants what they want. Tenants want these things, would you believe? But also, no landlord can afford to pay these upgrading costs out of existing rents.

Such things are not built into the rent structure for the simple reason no one knows what costs of cupboards or carpet or anything else will be 10 to 20 years from now. Also, to charge present tenants more rent at the beginning of their tenure for improvements to be made 20 years hence would put the rent beyond the market range in many cases. Also, most buildings involved in major refit requirements are in the 20-year-old-or-more range, before rent controls came in, and rents started off low and were not raised in the pre-rent-control period high enough to anticipate either the refitting costs or the advent of rent controls.

Therefore, there must be a mechanism to allow the sharing of these costs, without a cap, between landlord and tenant over time. It is reasonable, it is fair and it ensures the good maintenance and management of rental buildings. The landlord should not have to obtain tenants' approval of any renovation. If it is feared that some might be frivolous, perhaps a category could be set up under which certain contentious items could be listed as needing approval by the majority of tenants. For example, you might want to put installation of a so-called luxury item like a marble vanity on a list that would have to be approved by a tenant or group of tenants, whereas replacing concrete floors in a parking garage would not be on such a list.

Re sections 23, 24, 25 and 26 in the particular bill we are faced with here, dealing with a tenant's right to apply for rent reduction, these sections are quite unacceptable. They are extreme measures which will put the landlord in a very precarious position subject to the whims of tenants at any time, when in their view the building is not being well maintained. It could result in chaos. The rent officer would be required to take time to inspect the premises and act as sort of a referee in determining what maintenance would please the tenant. Also, the lowering of rent due to an inordinate decrease in his operating costs is just not practical. If such a situation were to occur, and I cannot envisage any scenario where it might, the decrease would only be temporary. Yes, it might give the landlord a temporary cost reprieve without in any way, however, affecting the tenant. Any reduction after the rent has been set would be financially difficult for the landlord. You plan your year ahead on getting so much rent. Therefore, I have this income to work with and I want to do certain things and now, all of a sudden, I find it is going to be reduced. It is too shocking.

There are strong municipal maintenance standards bylaws—believe that—which already address building maintenance. Any further policing in this area is redundant. Also, it is very important to note that many cases of deterioration are caused by the tenants themselves, through lack of proper and adequate housekeeping. The proposed penalties provided in this section for any breach are really too severe.

Another part of the legislation which is objectionable and unnecessary is the requirement to register small buildings; that is, buildings of four to six units. There are thousands of small landlords around and thousands of these buildings. The cost to the taxpayer to do this would be huge. It is totally unnecessary. Further, many owners of the buildings, being small landlords, would find the complicated process of registering these to be quite a difficulty. Big buildings are registered—let it go at that.

Last, and one of the most important parts of the legislation which is really frightening, is the right of the ministry to obtain search warrants to search a landlord's home or other premises. This kind of power should avail for criminal matters only; it has no place whatever in civil legislation in this country. It is obvious that in the true interests of fairness this bill must be scrapped and a new one drawn up after consultation of a committee made up of personnel, representative landlords and tenants. That is the only way

to arrive at palatable legislation in this very contentious area of rental accommodation. Thank you.

1030

The Vice-Chair: Thank you. Mr Grandmaître, you have a question. Could you just read the question, Mr Davy?

Mr Davy: Okay, thank you. The question is: "If we were to abolish the percentage system or percent increase, what formula or mechanism will you replace it with?"

That is very viable. I think the percentage system is okay. I do not think there is anything really wrong with using that system to increase rents. It is just that I do not think it should be looked upon as being such a horrendous increase when you see a 30% increase. Do you understand my point? You have to have some method of increasing rent, and if a percentage system is not in place you have to use a dollar system which one can translate right back into a percentage system. My concern is simply that we talk about people getting a 50% increase. If they are only paying $200 a month to start with, 50% brings them up to $300 and that is still cheap rent. That is my main concern.

Mr Winninger: We started with Bill 4 and there were a lot of complaints from landlords that it was retroactive. It was designed to deal with some wildly escalating increases under the RRRA, so we introduced a transitional provision under Bill 121 to allow landlords to pass through capital costs up to a limit retroactive to January 1, 1990, the theory being that before that date they would already have applied for and received their increases under the old legislation. The landlords complained that they were not able to pass through their capital costs so we allowed them to pass through capital costs up to a cap of 3% above guideline, all very fair, I would submit to you, in coming to terms with the landlords' concerns about deteriorating housing stock and being able to make a modest profit.

The area where I would disagree with you, however, is that landlords should get a general amnesty on the rents. We know that when they registered the rents in 1986 there were a lot of complaints about that. The justification process never really took place, and I think it would be grossly unfair to say to the tenants now, "We're going to allow the landlords an amnesty." I am sure you are a good landlord and you do good repairs, but that rewards the kind of ruthless landlord who increases rents unlawfully. I do not think we should reward landlords for that kind of misconduct.

Mr Davy: To answer your second point, my point was not in any way intended to try really to give amnesty. That was not the main thrust of my intent. The main thrust of my intent was simply to start with a fresh base; it was not the intent to simply grant amnesty. That was a byproduct, if you like. The main intent was to say: "Start with a fresh base. Let's call all the blinking rents legal and let's start from here and stop about all this 'rents set in 1984, the 1980s.'" That is all. It was not intended to grant an amnesty.

To comment on the first comment you made about the cost of building and maintenance, capital costs, my concern and I think the landlords' concern—although I am not involved in this like some landlords so perhaps I am not quite as qualified to speak—was that if they had had an application in for rent review, it had been approved and the tenants sometimes even had been paying the new rent, you understand, then to have that ruled back after they had borrowed money to do these things was my concern. This was a fait accompli. That is what I say; that should have not been retroactive. That was done, it was approved and they were paying it. Leave it alone.

The Vice-Chair: Mr Tilson has a written question.

Mr Davy: "With all the bureaucracy being created, are the rent control wars of New York inevitable?"

Well, yes, I think it is pretty hard to say it is inevitable but it is certainly leading to that kind of thing. Any situation where you get alienation and confrontation between two groups and where you have each group struggling to survive financially—a lot of tenants have a rough time paying the rent and a lot of landlords are having a rough time—when you get those two ingredients, then you have the recipe for problems. If landlords cannot keep their buildings up, then they deteriorate and the rents cannot go up. People cannot pay the rents, the building deteriorates further and the whole neighbourhood goes down. I am not sure the bureaucracy is particularly related to that, but I think the system of having a restrictive rent control is.

The Vice-Chair: Thank you very much, Mr Davy.

KINGSTON RENTAL PROPERTY OWNERS' ASSOCIATION

The Vice-Chair: The next presentation will be from Bob McKean. The unions cancelled just now. Good morning, Mr McKean. The committee has allocated 15 minutes for you to make your presentation. We would enjoy it if you allow us a few minutes for questions and answers within that 15 minutes. You can begin by introducing yourself.

Mr McKean: Thank you, Mr Chairman. My name is Bob McKean. I am president of the Kingston Rental Property Owners' Association. I have been a landlord since 1972 and a licensed real estate agent since 1978, so I look at the situation from three different points of view. What concerns me as I present this, my fourth brief at yet another hearing to yet another Minister of Housing, is whether those attending are really prepared to listen.

The Kingston Rental Property Owners' Association is made up of approximately 58 members. These landlords represent about 7,000 units in the greater Kingston area, and 90% of our membership is made up of landlords of 30 units or less. The membership is made up of teachers, shopkeepers and tradespeople, everyday people like you and me.

Our association has been operating since 1970 and up until recently has had a good rapport with our tenants. We find with the present regulations and the stipulations this relationship is deteriorating at a rapid rate. Five of our small landlord members made applications for rent increases based on capital expenditures. They used the services of an experienced rental consultant to arrive at an approximate cost of the rental increase due to their expenditures and went ahead with the expenditures. One landlord in particular spent over $200,000. I personally spent $90,000 for a rent increase due December 1. It got rolled back to October 1, I did the renovations and got no credit for it. The renovations were almost finished when it became retroactive.

As one frustrated small landlord from our association writes: "My building was owned by a family who had the building paid for. They had not raised the rents for many years, leaving the rents well below market level. I had to get a mortgage. I had to apply for more than the guideline rent. Rent review gave me an agreement to raise the rent by 5% over guideline for three years. The tenants did not complain and they were pleased with the work that was being done. I had hoped to break even. Now my deficit is $14,000 per year because the new government rolled back my increase. Is our government deliberately trying to put landlords into bankruptcy? The rollback of phased-in agreements is tantamount to legitimized stealing. Where is the rent adjuster who can help the small landlord adjust rents for apartments where the owners did not keep up with the present increases, instead of continually trying to drive the rents down for a legitimate increase? The new rent police in rent review are similar to the KGB in the Soviet Union. Are we going beyond socialism to communism?"

1040

I had a number of other things I wanted to talk about, but something has come about recently that I thought was even more important. In August 1991, Gary Wilson, our MPP for Kingston and The Islands, sent a letter to tenants in the Kingston area. I would like to read you this letter:

"Dear Friend:

"It's a new day for tenants like you. On June 6, Housing minister Dave Cooke proposed a new rent control law that will provide you with rent rules that are fair and certain.

"An important feature of this new tenants' bill is that once this bill is passed, new rules will strengthen your right to have needed repairs and maintenance done to your apartment.

"When the New Democrat government took office in October, the rent review system was a mess. Tenants never knew if their rent increases were going to be 5% or 45%. Landlords were tied up in wasteful and time-consuming bureaucracy. Some landlords weren't doing needed repairs; some were doing unnecessary renovations and charging tenants who didn't want them and couldn't afford them.

"In my riding of Kingston and The Islands we found that tenants had been victimized by rent increases of up to 25% a year. Sometimes big landlords flipped apartment buildings and passed inflated financing charges on to tenants. Other landlords exploited special giveaway provisions in the old law to hike rents. For example, one landlord owned two companies. The first company owned the building while the second owned the land the buildings sat on. The land company raised the rent it charged the building company. The building company passed this increase on to its tenants. In the end the giveaway contained in the old Liberal law gave landlords many opportunities to manipulate the law and make tenants pay more.

"That's why Housing minister Dave Cooke put an end to the giveaways allowed under the old Liberal law. And to plan for a new, permanent law, the New Democratic"—

Mr Tilson: That is a nice, non-partisan letter.

Mr McKean: It goes on and we ought to skip because it comes into a number of—the old rent review system was unfair, landlords used giveaway provisions to charge higher rents, tenants were left afraid and the New Democrat government rent control system will give a rent control you can count on.

I find this letter infuriating. In his enthusiasm to protect the tenant, did he not once stop to consider the numerous landlords in his riding who are not aware of their rights probably because today landlords have so few? This is another instance of the poor tenant being protected against whom? A fellow citizen who invested time and money in rental property. Our problem certainly is not going to get better unless tenants and landlords start to work together to reduce these costs.

When is Mr Wilson going to send me a letter, call me "friend," tell me what a good service I am providing to the community by providing affordable housing available at no cost to the government, thank me for taking phone calls in the middle of the night which forced me out of bed on Christmas Eve to repair frozen water pipes that occurred as a result of a negligent tenant leaving the door open, or putting up with destructive tenants? This letter does nothing but pit the tenant against the landlord more than ever before. It is no wonder tenants now tell landlords they can do anything they want, "I pay my rent." Is this the NDP mandate?

In one breath the government says: "Trust us. We're looking out for your best interests." Is this an example of it? Where is help from the system when an annoyed tenant calls property standards over a minor issue? And who can please everybody? As a result of one complaint I was told to replace 15-year-old aluminum windows to meet 1991 standards.

A number of ways Bill 121 affects our business:

1. A reduced annual guideline: It was previously agreed by a committee of landlords and tenants that the guideline formula is based on 66% of inflation. The government now reduced it to 50%.

2. Limit on capital increases: Under Bill 121, increases above the guideline will only be allowed to a maximum of 3% each for two years for large buildings and three years for small buildings. To qualify for the 3% you actually have to spend 5% each year, since the government has deemed 2% to be included in the guideline for capital work. In other words, you have to plan your capital spending such that it will not generate an allowance of more than 10% over two years. A garage repair will have to be broken into a series of projects over many years at much higher costs and inconvenience to the tenant in the long run. You will have to miraculously select the perfect time to do the work: too early and it will be disallowed as unnecessary capital; too late and it will be ruled as a result of neglect. After all this, if you manage to skirt every minefield, the government will generously allow you to recover 60 cents on the dollar.

3. Extraordinary operating cost increase: The same 3% cap must cover extraordinary operating costs, so you had better hope that in a year where you have to spend money on capital, your municipality does not increase your taxes, utilities, put on a sewer surcharge—as they did this year—heating cost, and of course now the added GST. As for other costs beyond our control, insurance rate increases or higher maintenance costs and vandalism are no longer grounds for increases.

4. Blatant disregard for loss: Remember how David Cooke, our previous Minister of Housing, promised that those caught with capital expenditures not recoverable under Bill 4 would be treated fairly under the law? Chalk it up to another broken promise. The expenditures have been capped at 3%. It does not cover the money I have spent.

While trying to recover a fraction of what was spent in 1990, you will not be able to do any new work until 1994, since your 3% allowance has already been used up for the next two years. This is no defence if you get a work order. Your rents could be rolled back if you do not comply immediately. Future capital allowances could also be at risk if it is ruled the work was neglected, even if the landlord can prove there was no money to pay for it with just a 3% increase.

Do you realize mortgage companies are reluctant to lend money to owners for repairs, and even it they do, the cost to refinance an existing mortgage is extremely high, with the legal appraisal and mortgage fees? Mortgage companies do not like owners to take equity out of their building. I know. I have tried.

5. Unreasonable maintenance: The new law proposes to penalize a landlord who does not comply with the work order within 30 days of being reported to the ministry. Notice it does not say, "make a reasonable effort to comply." You must actually show the work has been done. What if the plumber is on strike? What if it is in the wintertime and I get a work order for paint? You cannot do it in 30 days. It simply cannot be done. Too bad, you are out of luck.

The government, via this bill, is treating landlords as criminals before we are proven guilty or even convicted of any crime. Why is there even a provincial board at all? Here in Kingston, as in most communities, channels already exist. They work. This is one more case of government intervention in municipal affairs.

6. Permanent reduction in the value of the building: Mortgage companies are hesitant to loan more than 65% of the appraised value for new purchasers. Would you invest 35% of your money into a building with no return? It is no wonder so much money is being reinvested out of Ontario. I know of a number of situations where they have invested in Edmonton and Dallas, Texas, within the last couple of months.

A couple built an 11-unit apartment building on Wellington Street in Kingston. Some 32 years later, the elderly widow offered the building for sale at $600,000, or $54,000 per suite. Prior to Bill 4, an offer was accepted for $540,000, accepted by the vendor, but withdrawn by the purchaser upon hearing of major changes coming. The building was later sold for $352,000, based on its income, well below the $70,000-per-suite replacement cost. This elderly woman was penalized $188,000 because she failed to increase her rent each year. She liked the tenants. They had a good rapport, so she had not raised the rents. Why should she be penalized? This is one more circumstance where a rent increase in excess of the guideline is necessary just to bring the building up to a reasonable value and to bring the rents to a market level.

The government was concerned that our capital expenditures were of a luxury nature. In many cases, our buildings are 20 to 35 years of age and require fire alarm systems, upgrading electrical services and elevators. Our balconies are cracking, mechanical systems are worn out, tenants are continually asking for upgrades. They deserve some upgrades, and you tell me I cannot do it unless it is in the 3%. Where does the landlord get the money to do the repairs?

7. Increase in interest rates: For most landlords, mortgage payments are the largest single expense category. An increase in interest rates, which is completely beyond my control, could lead to bankruptcy if there is no way to pass the cost through, yet Bill 121 eliminates a landlord's ability to pass through increases resulting from a higher interest rate. Interest rates right now are at a four-year all-time low. Inevitably, they will go up.

As if fluctuating interest rates are not enough, mortgage companies are reducing the principal amount of existing mortgages upon renewal. They say, "Because of your rent increases not going up, we're not going to renew your mortgage for the same amount." Where does the landlord get the shortfall?

1050

8. More bureaucratic hassle for the small landlord: The rent registry has essentially been inoperative and unable to cope with the task of registering and providing notices for large buildings. Now you have decreed that buildings which contain four to six units must register. The bureaucratic hassle is so confusing and intimidating that the average Ontario citizen considering some form of investment will avoid rental property and invest in something else.

The government told us that if we go through the right channels and use the rent review process, we can get a rent increase in excess of the guideline. Then sweeping retroactive changes are made. The existing landlords are so frustrated they want out. My own buildings are for sale. I have been a landlord since 1972 and I am fed up to here. I have enjoyed it up until now.

9. Search and seizure: For the first time in the history of rent review, officials will now have the power to search any landlord's premises and seize records, inspect and photograph evidence. These sweeping powers given to the rent police are truly frightening. I give 24 hours' notice to my tenants to enter their apartment for repairs, yet the rent police have the right to enter my home unannounced, push aside my family and seize records from my basement office.

10. The unknown: Definitions for terms such as "neglect" and "inadequate maintenance" are not established. Changes to the rent control index have been talked about but will remain unknown until regulations are released in the fall or winter. There is also some talk that the capital amortization table will be altered. Clearly, very little capital work will be possible for 1991-92. There is no guarantee that the calculation of the allowance will be based on a 10- or 20-year amortization or whether a particular expenditure meets an undefined test of "necessary to physical integrity" of a building or to protect the environment.

I had some discussions on behalf of one of our association members with representatives from Revenue Canada. This particular owner has a small, four-unit building. She has owned it for a number of years. She is losing money. Revenue Canada is now saying there is a possibility she

will not be able to write off her loss if there is no chance of her making a profit on the building. With this added threat, one more person is considering leaving the business.

In conclusion, the NDP government seems to think all landlords are rich and greedy. Many of us are just ordinary people. Faith in our economy and the free enterprise system has made Canada prosper and succeed. As we make laws that infringe on these basic policies and rights, we jeopardize the democratic system. Get out of rent control and subsidize the people who need the help. If there is such a shortage of accommodation, if there is a profit to be made, more buildings will be built and there will be lots of accommodation available.

The Vice-Chair: Thank you. You have perfectly timed your presentation to use the entire 15 minutes. We appreciate your coming today.

KINGSTON COMMUNITY LEGAL CLINIC

The Vice-Chair: The next presentation is by Andrew Roberts of the Kingston Community Legal Clinic. As you know, you have 15 minutes allocated. Please identify yourself and your organization for the purposes of our Hansard recording.

Mr Roberts: My name is Andrew Roberts and I am a staff lawyer with the Kingston Community Legal Clinic in Kingston.

I am going to begin my presentation with a short story. I am unable to quote the source, but I understand that a very wise judge once said to counsel who was going to appear before him that he should be concise, be clear and be gone. In my presentation this morning, I am going to try to be that way.

It is our intention to bring to the committee's attention this morning the different and particular characteristics of the housing market in Kingston, particularly the tenant population and the housing stock which is rental housing stock in Kingston, and to offer two strong recommendations as a result.

Our first recommendation is that the rent registry apply to all residential units in Ontario.

Rental units comprise a high proportion of the residential premises in Kingston, much higher than is the proportion of rental units in many other communities in the province. The city of Kingston's report issued in 1990 as the Municipal Housing Statement Update indicated that, as of 1986, some 58% of the housing units in the city of Kingston were rental accommodation.

The second peculiarity to the housing market and the rental market in Kingston is that a large proportion of the housing stock in Kingston is composed of smaller units, as many of these units were constructed before the era of large multiple unit buildings. Over a quarter of the city's housing stock was built before 1946 and almost another half was built between 1946 and 1970. Almost three quarters of the housing stock then was built before 1970, based on 1986 as the base year. Although the data are not available in support of the point, I would assert that much of this older rental housing stock is comprised of rental units in buildings with just one or a few rental units.

A further quality which I would suggest is particular and peculiar to the residential rental market in Kingston is a high degree of transiency among tenants. Kingston is the home of Queen's University and its enrolment of about 15,000 students, many of whom are tenants. There are eight federal correctional facilities in Kingston, many of which release inmates to the Kingston area, and many inmates have families who move to Kingston to be closer to them while they are in one of the institutions. There is a regional psychiatric facility with some 700 beds, many of whose patients are released into the community. Many of these people suffer an illness again and are reinstitutionalized and released yet again. Finally, Kingston is the centre for a large hinterland for a variety of residential care facilities whose tenants, clients and patients are often released into the Kingston community after a period of residency in one of the facilities.

These are characteristics that are peculiar to the tenant population in Kingston and I think speak to a higher degree of transiency than one might normally find elsewhere in the province. The result of this is that incoming tenants often lack knowledge about the outgoing tenants and about the rent that had been paid by those previous tenants.

Given the particular qualities of high transiency, older and smaller rental housing stock and a high proportion of rental housing, we feel the rent registry should require the registration of all residential rental units in the province.

Our second recommendation is one which earlier speakers have canvassed and, I am sure, subsequent speakers will address as well, that a much-expanded low-rise renovation program be delivered by the province.

As I indicated earlier, over a quarter of the city's housing stock had been constructed by 1946 and almost a further half was built in the 1946-to-1970 period. Given the age of the housing stock in Kingston, major maintenance and capital expenditures are extraordinarily costly. Many stock items cannot be used; special materials must be obtained and the costs of repairs are enormous.

These questions, as earlier speakers have suggested, created a tremendous tension between tenants and landlords. But instead of dickering over percentages and amounts that ought to be and should be and can be allocated to these areas, it is our contention and suggestion that much of this tenant tension would be alleviated if a much-expanded low-rise renovation program were offered and delivered at the time this legislation comes into force.

I made inquiries about the program in its present form and found that in Kingston only 75 units had been allocated for the low-rise renovation program in 1991. This allocation was gone in less than two weeks. I was given to understand that the program works extremely well, that it is managed easily by the officials who must manage it and that, as an estimate, a further 500 units could have been found to be eligible under the program in place at this time.

1100

Accordingly, given the particular nature of the especially aged housing stock in this community, very unlike the housing stock in many other parts of the province, particularly the larger urban areas, given the extraordinary costs of major maintenance and capital expenditures to this aged

housing stock and given the tensions which are placed by this between tenants and landlords, we propose that a much-expanded low-rise renovation program be introduced concurrently with the new Rent Control Act.

Those are the two submissions that the Kingston Community Legal Clinic wishes to make to this committee. We thank you for the opportunity.

Mr Tilson: The general theme that seems to be developing here today, and which has developed in other communities we have visited, is—from both landlord and tenant groups—the lack of simplicity; in other words, that the whole system is becoming more and more complicated. It is a great boon for people like you, of course, because you are going to be the only people who are going to be able to understand it.

Mr Roberts: We are also run off our feet.

Mr Tilson: I am sure you are, and you are going to have to become a specialist to understand it, because I do not think the average lawyer is going to be able to understand it after a while. We hear that tenant associations which are forming have to go to conferences. We have landlord associations hiring lawyers and consultants. It is getting bigger and bigger. How much can the taxpayer bear? Because all of this complicated bureaucracy and regulation is going to require an unbelievable amount of not only people in the private sector, such as you—I do not know whether you are in the private section.

Mr Roberts: The non-profit, voluntary sector.

Mr Tilson: Okay, and certainly in the public sector as well. You are a taxpayer. How much can you bear?

Mr Roberts: I would like to answer your question, if I could, within the ambit of the recommendations we have put forward. In connection with the recommendation that the rent registry apply to all residential units, I did observe the requirements of the rent registry in another setting in which I worked previously and it was not my observation that those requirements were particularly onerous. I feel there are other draws upon the bureaucracies that occur when tenants find the rents they are paying are perhaps not the legal rents and they then have to seek to invoke measures they do to bring redress to that. Furthermore, many tenants who may be paying illegal rents will face a variety of complications in relation to their income and will have to draw the bureaucracies into play on their behalf in that regard. I think a rent registry that is simple should—

The Vice-Chair: Thank you. Mr Wilson.

Mr G. Wilson: Thank you very much, Andrew, for your submission here. It certainly presents two well-documented and well-argued suggestions which we will take into account. I do, though, want to ask you, from your experience in the legal clinic, about the kinds of problems you run into. For instance, a previous speaker to our committee suggested that the legislation is causing antagonism between landlords and tenants. The thrust of our legislation is in fact to try to relieve these tensions. They pre-dated our legislation in particular and legislation in general probably since, as you heard, the Tories themselves brought in rent control legislation some 15 years ago. I am just wondering what your observation is of this. From the cases you have heard, what are some of the grounds of these tensions that you hear? Are tenants out to gouge landlords?

Mr Roberts: My observations are that the tenants look forward to the legislation that is presently in draft. Tenants find solace in feeling there will be fewer loopholes and fewer ways around the issue of rent control than there have been. Also, I have observed tenants to feel solace in the areas of maintenance and renovations, but I fear some of that solace will turn into tension, as I have suggested in my brief it may. I am not sure that solace is well founded and I fear some of those tensions will be brought upon the relationship between tenants and landlords in the present manner. I make that recommendation in the strongest possible terms.

Mr Grandmaître: Mr Roberts, in your presentation you alluded to a low-rise renovation program twice, I think, or maybe three times. Did you know there is a low-rise renovation program in place?

Mr Roberts: Yes, and I referred to that particular program when I suggested that 75 units were allocated to Kingston in 1991. But I was given a best guess that 500 units could have easily been handled if the funds had been allocated under that program, under the presently existing program. There is a program, but its scope in this community is far too modest.

Mr Grandmaître: Did you discuss this with municipal council, because as you know, to apply for this low-rise renovation program you must go through your municipal council.

Mr Roberts: Yes.

Mr Grandmaître: What was their request?

Mr Roberts: I have not discussed this with members of council. I have discussed this with a city official with whose work I am familiar and who gave me some guidance on this.

Mr Grandmaître: But you do not know what the—

Mr Roberts: I do not know that the city of Kingston has applied for a greatly increased allocation of units.

The Vice-Chair: Thank you, Mr Roberts. We appreciate your presence here with us today.

HASTINGS AND PRINCE EDWARD LEGAL SERVICES

The Vice-Chair: Our next presentation is from Lynn Wheatley, Hastings and Prince Edward Legal Services. You have 15 minutes allocated to you. I will, if you wish, warn you if you are approaching the end; otherwise you have 15 minutes to discuss your brief with the committee as you wish.

Ms Wheatley: Thank you very much for the opportunity of being here.

I do work in a community legal clinic. Our main office is in Belleville and we have satellite offices in Bancroft, Picton and Madoc, which are all rural communities. We represent many clients who live in rural areas and we therefore are familiar with rent review issues that particularly affect those types of tenancies. What we have decided

to do in our presentation is highlight four issues we feel are of particular importance to rural tenants.

I have given you a written brief. You will notice that it is long. Certainly if I went through the whole thing, it would take more than 15 minutes, so I am going to highlight the four issues and try to spend just a couple of minutes on each issue, leaving time for questions.

The first issue we would like to raise is the enforcement of repairs and maintenance, which is of course very important to tenants because it is very important that their homes be repaired and maintained. It is obviously the landlord's obligation to do this under the law. The question is how is this obligation enforced, because sometimes it is difficult to enforce the obligation.

In rural areas, a typical rental home would be a single-family house or a single-family mobile home which is occupied by the tenant with no common areas. It is often on a large tract of land. The landlords are often absentee landlords who live in cities, who own the land either because they want it for their retirement or for investment purposes. There is often not much time devoted to maintaining the premises by the landlord, and sometimes tenants are expected to maintain them themselves, so we are glad to see that Bill 121 does have some enforcement mechanisms for repair and maintenance.

1110

One of the enforcement mechanisms is the rent penalty. We think that is an appropriate remedy if a landlord has not maintained or repaired a premises. However, we do have some concerns that this may not be effective in a rural area. There are 32 municipalities in the two counties of Hastings and Prince Edward. Only 15 of them have property standards bylaws. Even in the municipalities with property standards bylaws, it is sometimes difficult to get work orders in those townships and villages. Property standards bylaws officers are often reluctant to make work orders. In small towns everybody knows everybody and things are often done to avoid conflict. There may be more reluctance by the property standards bylaws officers in small towns to issue work orders if they know the consequence is going to be a rent penalty.

We support a provincial standard, and we support a provincial standard that should apply to all municipalities without property standards bylaws and to all municipalities where the property standards bylaws are inadequate. For example, in Bancroft the property standards bylaws only apply to the outside of the building, not the inside. We also think the standards should apply where there is not proper enforcement of the bylaws. There must be consistent enforcement of the maintenance bylaws across the province or the rent penalty enforcement mechanism will be meaningless to people who live in rural areas where they cannot get work orders.

The second issue I would like to address is the rent control guideline. As everyone knows, in the bill each year the minister will set a rent control guideline and this will be based on a rent control index which takes into account operating cost categories set out in the regulations. We anticipate the operating costs will likely include superintendent's salary and rent, heating, hydro, water and cablevision, among other things, because that is the current operating cost.

This method of determining a rent control guideline imposes operating costs on tenants in rural areas that are not reflected in actual operating costs borne by landlords. In our experience, in the single-family home that tenants typically live in, they pay their own hydro, they pay their own heat, they cut their own wood and there is a well so there are no water costs. There is no superintendent because there are no common areas. Often you are not even going to get cable TV, so that is not even an issue.

We think it is inappropriate that a landlord would be allowed a rent increase based on the increase of costs such as heating and hydro when the landlord does not bear the costs, the tenant bears the costs. Recognition should be given to tenants who pay their own utilities. Perhaps the regulations could be adjusted in those situations—there could be a regional guideline—but it is inappropriate that a tenant should pay, through a rent increase, for operating costs the landlord does not have to pay for.

The third issue I would like to talk about is maximum rent. The Ministry of Housing has repeatedly stated that this bill will mean that no tenant in Ontario will ever be faced with a rent increase which is greater than the rent guideline plus 3%. By maintaining the concept of maximum rent, this simply is not true. It is false. Section 11 of the act would allow the landlord to charge rent above a guideline increase if the rent is not higher than the maximum rent. A tenant could easily be faced with an increase of 15% to 20% in one year or more. I will give you a couple of examples.

In rural areas, what typically happens is there is not a rent increase for many years. For three or four years perhaps there could be no rent increase. This might be because the market rent has not gone up. This might be because the landlord can operate the premises and make a profit without increasing the rent, so there is no need to increase the rent. If three or four years pass and there is no rent increase and then the landlord decides, "I want the maximum rent now," a tenant in a rural area could be faced with an increase of easily 15% to 20% in one year. Economic eviction would be the result. Rural tenants are often tenants with low incomes, and if they were faced with an increase that high, it could mean they have to leave.

A second example of this would occur when there is a discounting. Now this is not a rural problem necessarily, but the case I have cited in here is from Belleville. Where there is a discounted rent but the landlord can set the maximum rent at the undiscounted amount, it could lead to problems. In the example I have given you, there was a lease in 1985, undiscounted rent of $820, discounted rent of $570. In 1990, the Rent Review Hearings Board set the maximum rent at $1,027. The rent the tenant was paying in 1989 was $727. If the landlord raised the rent to the maximum rent, that would be a $300 rent increase in one year, almost 50%, which is unbearable.

The concept of maximum rent must be refined to protect tenants against large increases and live up to the promise of the government. There should be no large rent increases, ever. If the concept of maximum rent is not abolished or

refined, there must be a cap on the amount of rent increase a landlord can take each year, despite the maximum legal rent.

Our fourth point has to do with procedure, and procedure is important because of access to a fair hearing. Two points about procedure: The first is that we support an independent review process. Under the current scheme, rent review officials would make all the decisions in the administrative process or the hearings and the only appeal would be to a Divisional Court on a point of law. We submit that there should be an independent hearing board so that tenants can have a fair hearing.

The second point that we would like to raise with respect to procedure has to do with the right to a hearing. It is very possible that if a tenant does not ask for a hearing, there will be an administrative process only. This is a problem for tenants who do not have the resources, are not literate; perhaps they do not know they have to ask for a hearing. You could easily have a tenant where the decision is made by administrative review by default. A tenant who is illiterate or who does not have access to legal services or has transportation problems may not make written submissions in an administrative review, and we are concerned that if there is not an automatic right to a hearing, tenants will be deprived of a fair process.

That is all I have to say. Is there time for questions?

The Vice-Chair: There is about five minutes. Ms Harrington.

Ms Harrington: I wanted to reply to some of your concerns. In the small municipalities, the province does have property standards inspectors. There are 36 of them and their responsibility is to try to deal with the problems in the rural areas where there are no municipals.

The problem of maximum rents which you brought forward and the fact that there is no stability for tenants in that particular system is something we have heard before, we have noted and we are concerned about.

Now you are saying the costs in rural areas are not fairly reflected in the guideline. That is something I am glad you came all the way from Belleville to tell us, because our view was that every part of Ontario deserves protection and that is why, of course, we thought the guideline should be throughout Ontario. So we certainly would like to look at that problem of applying the real costs in the guideline.

Ms Wheatley: If I could just make a response about the property standards officers, I work in the Bancroft area. I am there every week, so I have experience with the inspectors who have been appointed by the Residential Rental Standards Board. I think that is good; I think it is good that we have a provincial standard. My concern is that there be enough trained and experienced inspectors to do the work; 36 in a province the size of Ontario is not a lot of inspectors. So if we are going to rely upon a provincial standard and provincial inspectors to protect these municipalities, they have to be there and they have to be able to get there fast and get their orders out fast.

1120

Mr Grandmaître: Possibly on the same subject, do you think we should have two minimum housing standards in this province, an urban one and a rural minimum housing standard?

Ms Wheatley: I think that might be a good idea because they certainly are different properties altogether. We are dealing in the rural areas with septic systems, wells. It is sometimes hard to compare an urban apartment building to a farmhouse with a septic system. So keeping in mind quality, I think two different standards reflecting the two different characteristics of the areas may be a good idea.

Mr Grandmaître: When the minister went around the province consulting people on Bill 121 for eight months, did you have a chance to tell the minister exactly what you thought of the bill?

Ms Wheatley: Unfortunately, with such short notice, at that time our clinic did not make a presentation on those initial consultation processes.

Mr Grandmaître: Do you know if the Kingston clinic did?

Ms Wheatley: I do not know. We were given very short notice on that one.

Mr Tilson: I come from a similar area as this, not as large as Kingston but a similar area. In the specific municipality where I live, we have one bylaw enforcement officer who looks after everything—canine control, you name it. There are other municipalities in our area that do not have any bylaw enforcement officer. They are rural-type areas.

We have had bankers, we have had landlords, we have had concrete restoration people, everybody under the sun, who have come to these hearings and said that with Bill 121 owners of buildings will not be able to undertake the capital expenditures necessary to make repairs to their buildings. They simply will not be able to do it.

The legislation of course talks about negligence. We do not know what it means, but it talks about negligence, and may result in a proliferation of charges by bylaw enforcement people.

My question to you is as someone who perhaps speaks for rural- and semirural-type communities that have bylaw enforcement officers, and I am not talking about the 36 people who go around the province, which I do not think will be enough. Will they be able to handle the job when landlords are telling us that they will not be making the necessary capital repairs to their buildings?

Ms Wheatley: There is an appeal process that landlords can enter under any municipal property standards bylaw. If there are a lot of buildings in disrepair and it may be possible that the small-town bylaw standards enforcement officer is not be able to handle it, that is when the province could step in.

Mr Tilson: That is the area I am looking at. I am not looking at the people who do not have bylaw enforcement officers.

Ms Wheatley: If there is a property standards bylaw officer, and because it is a part-time job and because he cannot enforce the bylaws, the provincial standards should apply not only in areas where there is no bylaw but in an area where a bylaw could not be adequately enforced either

because of reluctance by the property standards bylaw or the inability of the property standards bylaw to do it.

The Vice-Chair: Thank you, Ms Wheatley. We appreciated your coming before us this morning.

DORETA APPAREL SHOPS

The Vice-Chair: The next presentation will be made by Richard Kizell of Doreta Apparel Shops. You have 15 minutes allocated to you. If you would like to reserve some of that time for questions and answer with the committee, we would appreciate that. Please introduce yourself for the purpose of Hansard.

Mr Kizell: My name is Richard Kizell. I am part-owner of a company called Doreta Apparel Shops that is a landlord in Kingston.

Thank you very much for giving me the opportunity to make a presentation to the legislative committee studying the rent controls in Ontario. My father and I are small businessmen who own and manage a few residential buildings in Kingston. Our family has owned at least one apartment building in Kingston since 1954, so we consider ourselves long-term investors.

I have been extremely upset with the government's position on rent controls. The last year has been a nightmare for us as landlords. First the NDP government cancelled any phase-ins we had which had been approved by the Residential Tenancy Commission. We made investment decisions in good faith, and the NDP government arbitrarily cancelled decisions that had been agreed upon by the government's own commission. In my opinion, by cancelling past agreements the government violated my rights.

We were then faced with a rent increase frozen at 5.4% for 1991. In an ordinary year, we could probably have lived with an increase of 5.4%, but 1991 is not an ordinary year. The following are some of the increases in expenses we faced this year: We had to absorb a 7% increase for GST on all our supplies, utilities and maintenance and we were not able to apply to get any rebates or refunds on it; our property taxes are up 8% this year; our PUC costs are up 18% this year; our oil bills are up 10% this year; our balconies all need replacing; our roof is 30 years old; we are replacing our furnace and hot water tanks this year, even though the NDP government will not allow us to recover the costs.

If you are going to limit rent increases to 5.4%, why do you not limit Ontario Hydro increases to 5.4%? Why do you not put controls on oil costs? Why do you not tell the landlords that they do not have to pay the GST?

Are we not entitled to a return on our investment? The announced 6% increase for 1992 has tempered my anger to some extent, particularly if you allow an extra 3% for extraordinary operating costs. This is acknowledgement that it costs more to operate buildings. If rents do not go up to cover the increased costs, landlords will have no choice except to cut services.

I have a 14-unit building that I spent $105,000 on last year to bring it up to code. I was given a grant of $70,000 towards the cost under the low-rise rehabilitation program. Unfortunately, that program has no money in it this year. Our building is 40 years old and the plumbing, wiring, kitchens, bathrooms and roof all needed to be replaced. We had done the repairs over the last 40 years but, unfortunately, the standards had changed, technology had changed and everything needed to be replaced.

It was only because of the grant that we could afford to do the work. Is the government prepared to give every landlord a grant to do major capital repairs, or is it going to allow higher rent increases for major capital repairs? Eventually, the government will finally realize that rent controls are not working.

Rent controls penalize both the landlord and the tenants. Rent controls distort the marketplace and do not help those who really need the help.

I have one building where the rents are $550 per month for a two-bedroom apartment. Most of the tenants can easily pay more. I have another building where the rents are $375 per month for a two-bedroom apartment, where I would say that 30% of those tenants cannot pay the rent at that low level. How many people in Toronto would line up for an apartment at $375 a month for a two-bedroom apartment? Yet those tenants still cannot afford to pay the rent. They are still bouncing their cheques and it all has to do with the location of the building.

In both buildings the rents went up 5.4% this year. In the one building the tenants could easily afford the increase. In the other building the tenants could not afford the increase. How is rent control helping the tenant who needs help? The answer is to phase out rent controls and let the market decide on the rents. With a proper phase-in period, there will be more building. With more building, there will be more supply and therefore more competition. In some cases, rents will actually come down.

The key to phasing out rent controls is to provide rent vouchers to those who actually need help with paying their rents. In my opinion, rent controls have not helped the poor but have subsidized the rich tenants and penalized the landlords. The rental stock in Ontario is deteriorating and operating costs are rising faster than the rate of inflation. Where is the money to come from for capital costs?

I do not deny that there are many renters who need help. If rent controls were phased out, many landlords would probably make a larger profit, which would in turn, hopefully, be taxed fairly. Those higher tax revenues could then be used to target rental assistance to those who actually need the help.

With rent controls phased out, builders would build, competition would force landlords to maintain their buildings, the market would decide the rents, and everyone would be better off.

1130

The present system is not working. Some landlords get grants to build or to pay for repairs while other landlords get nothing. Many tenants are subsidized by rent controls while other tenants are still being forced out of buildings in spite of rent controls. The government is losing tax revenue while paying out grants, and those who need help do not get it.

Every study in the world has shown that rent controls do not work. I urge you to recognize that our operating costs are up, capital repairs are needed, tenants need a

place to live and the money has to come from somewhere. Does the government want to be the landlord to all the renters in Ontario? Are the taxpayers prepared to go on subsidizing those tenants who do not need help?

Thank you very much. Hopefully we have some time for some questions.

The Vice-Chair: We do. Mr Mahoney.

Mr Mahoney: Mr Kizell, you have asked a lot of questions that hopefully the government members will attempt to answer.

Ms Harrington: You can give me your time, Mr Mahoney.

Mr Mahoney: I think the answer that we hear them saying is that they want the private sector to stay in the rental business and to be part of producing rental housing, and yet everything in this bill would certainly point to the opposite viewpoint being true. There have been statements—it is not a matter of being unfairly critical—made by the Premier that he wishes to make it less possible for people to stay in the private rental business, and I think that message has come through loud and clear.

The previous presenter made an interesting point, however, that I think is very valid. It is that tenants should not be given a rent increase based on PUC costs or public policy costs of some description passed on to the landlord if indeed they pay direct. We have asked for a report on whether or not municipal taxes could be paid direct and assessed directly on a per unit basis, whether or not all hydro costs—individually metered, I suppose—all of those kinds of things could be passed on directly. Perhaps, as in a condominium association, there may be some common area responsibility of some type. Would you think that kind of system would work? How does your operation work now?

Mr Kizell: We have buildings where some of the tenants do have separate meters, and it works very, very well. It is amazing how they turn off the lights and are more efficient with the energy when they are paying. But unfortunately, to redo the buildings and give them all separate meters is very, very expensive. Somebody has to pay that capital cost.

Second is that there still is common area, which adds up. In one building we have an elevator, and the elevator costs are just going through the roof. Halls, the lights, the common-area rooms, the laundry rooms—we use a lot of energy. There is still that part of it that has to be paid.

The older buildings all have central heating. I would love to put electric baseboards in every single unit, with a separate meter and a separate hot water tank, but unfortunately many of the buildings that were built 30 and 40 years ago were not built that way. To redo the buildings, the money has to come from somewhere. I think every landlord would love that: go to electric heat, go to a separate hot water tank for everyone in the unit, and let them pay their costs. But what do we do with the old buildings? In most of the buildings 30 or 40 years ago, that was not the method. In a place like Kingston, in Kingston proper, most of the buildings are older, whereas in the township they are newer. It is difficult to do.

Mr Tilson: You asked one question as to whether or not the government would be prepared to give you any grants for any of your capital expenditures. You did not say it, but I would assume you would also include interest-free loans or reduced loans. That type of question has been asked of the government before. I will tell you what the answer is, and I would like to hear your response. The government's answer is that people like you have been ripping the system off, over the years, long enough; and second, that this is an investment for you. You have an obligation to maintain your investment, to make capital improvements at your expense, because in due course you are going to make an unbelievable capital gain when you sell your property. That is their answer; that is the answer to the type of question you have asked.

Mr Perruzza: On a point of order, Mr Chairman: Are you going to allow members to make wild assumptions about what the government's position is and is not, and are you going to allow members to put words in the mouths of me or—

Mr Tilson: You said it; you have never been here.

Mr Perruzza: I have never said it.

Mr Tilson: Your fellow members have been saying it week after week after week.

The Vice-Chair: That is not a point of order.

Mr Perruzza: If you want to play politics, play politics. If you want to ask legitimate questions, ask legitimate questions.

The Vice-Chair: Order. Mr Perruzza.

Mr Kizell: Can I answer the question on the low-rise economy housing?

The Vice-Chair: Mr Tilson, are you prepared to have an answer?

Mr Tilson: My question to you is, having heard that type of response—and I can assure you the government members have been making that type of response—what is your response to them?

Mr Kizell: I will tell you about the low-rise program. It was a sharing program where the landlords did put in money—yes, it is a long-term investment—but the technology has changed so much. We have had rent controls now, I think, for 14 years in Ontario. In that period of time, we had the old knob-and-tube wiring in every apartment. We have switched now to automatic breakers. The fire controls have changed. Our buildings are now up to code on existing buildings, but the new code is that you have to have the automatic door closures, you have to have a more sophisticated smoke detector system. Though our buildings meet the present code for old buildings, the new code for new buildings is so drastically changed that unless the money comes from somewhere, how do we bring it up to code?

Yes, under the low-rise program we were given a grant by the government, a two-thirds grant, but there were conditions on it. The conditions of the grant were that the first requirement of the money spent was all on safety things for the tenants. It was not frivolous money thrown away for some landlord fat cat to make a big capital gain. When you have owned a building for 40 years, yes, if you sell the

building there might be a capital gain, but the federal government is certainly looking after taxing that significantly. But the main point is that the tenants benefited so greatly from the low-rise program. They are living in safer buildings.

Which landlords are going to spend that kind of money when their building is already up to code—it is just that the new codes have changed—unless they are allowed to raise the rents or somebody gives them the money? That really was the basis of the program. The bulk of the funds went for that type of work. Of course, we also got a new roof out of it, for which we paid one third of the cost. But the money has to come from somewhere to bring up the standards of these old buildings.

Ms Harrington: I would like to try to explain some of the government's position, although the time is certainly limited.

You brought up in your brief a list of the costs that you are facing or have faced this year. The first four of these you enumerate, such as the GST, property taxes, the PUC, are part of the inflation calculation that makes up the guideline. So all of these things make the guideline fluctuate, costs go up, and therefore the guideline has gone up for this coming year, as you know.

I would like to get into a couple of the other areas that we have been discussing here. First of all, the market system has not increased supply. A system without rent controls does not increase the supply of housing. This is what we have found.

Mr Kizell: Where did you find that?

Ms Harrington: I can refer you to the studies if you would like. I have the papers. I can give it to you.

Mr Kizell: Yes, I would really like to see that.

Mr Tilson: It is probably confidential.

1140

Ms Harrington: The whole idea of this legislation is stability for tenants—that is where we start from; I will certainly grant you that—maintenance and upkeep of the building and a belief that this very basic part of life should be regulated.

From there I would like to assure you that we are realistic in knowing the problems that we face. It would be simple to put regulation on a system that is working, but the system that we have inherited is not working. The problems of Ontario are quite large. You have told me what some of them are: 20-to-30-year-old buildings which need massive repairs; speculation of land during the 1980s, where the cost of buildings has gone up. People who have bought buildings in 1985-90 are in problem situations because now the market is less than it was during those heydays of speculation.

The Vice-Chair: Are you anticipating a response?

Ms Harrington: No. What I would like to answer is that yes, we would like a simple system. We have to have a workable system and we understand and believe that we have to work with landlords and tenants for the betterment of this province. Earlier we heard a very interesting comment, which was, why do we not send out a letter to landlords? I think that would be a grand idea, to explain our position of working with the landlords in the future, as we did with tenants.

The other question you asked was where the money comes from for capital and where the government's position is on that. We believe that landlords, tenants and the government have a part to play in it.

The Vice-Chair: Thank you, Ms Harrington, and thank you, Mr Kizell.

Mr Kizell: Can I just respond to that first?

The Vice-Chair: If the committee tells me you can. Yes.

Mr Kizell: I will give you my business card. I would like to get those studies that show that the free market does not build rental housing. I would certainly like to see that because every study I have seen has been different. Yes, it has been factored in, the rent increases, but it is going to take me years to get. In the meantime, my expenses in the first six months of this year were up greater than my revenue. I therefore had to go to the bank to get a loan to finance that shortage. The GST kicked in January 1. When am I going to get my 6%? A year this October; that is the next rent increase. I have to finance that difference. I suffered, without any capital costs, without spending any money. I am borrowing money now for the furnace and the hot water tank, but just for my operating costs, I had to borrow money in the first six months because the costs went up greater than the revenue.

You are not helping the tenants. Many of the tenants cannot afford a 5.4% increase this year and a 6% increase next year, but many of them can afford it. You are not helping those who need the help. You talk about a stable housing supply. You are still not helping those who need the help. All you are doing is distorting the marketplace. You have not come up with the answers of how to help the poor.

The Vice-Chair: Thank you.

MIDGE ROUSE

The Vice-Chair: The final presentation this morning is Midge Rouse. Good morning. You have been allocated 15 minutes by the committee. We would appreciate it if you would introduce yourself for the purposes of Hansard. You may begin.

Ms Rouse: Good morning. My name is Midge Rouse and I am probably one of the smallest landlords in Kingston—not by stature. I have distributed my comments and I will just read from those.

Rent control has been a controversial policy since its introduction in 1975. Preceding provincial governments have attempted to establish policies which balance the needs of tenants for safe, affordable and attainable housing against those of landlords for a profitable return on their investments. The debate on rent control continues, as is evident by this committee's presence in Kingston and certainly in the presentations before me this morning. I have come to speak to you today as a very small landlord in support of the Rent Control Act, 1991. I believe the act balances the needs of tenants for protection and those of landlords for a reasonable return on investment.

Landlords are as diverse a group as tenants. Landlords include large corporations, small companies, individuals with

a few rental properties and people like myself who rent part of our homes. Few of us are slum lords with no regard for the tenants' health and safety, and few of us are landlord buccaneers driven to speculate on rental property. Many of us see rental property as a secure investment in economically precarious times.

Some landlords—this is particularly interesting since the gentleman before me—have no doubt come before you and expressed their concerns that the Rent Control Act of 1991 will result in the reduction of the construction of new buildings by forcing landlords out of the market. They might have said that the act will actually result in a reduction of health and safety standards of buildings because the formula will not meet capital expenses. Some might even have argued that the government of Ontario should not intervene in housing and that market forces should determine the distribution of rental housing.

It will not surprise you to hear that these arguments have been raised by landlords upon each occasion that a government introduced a rent control act or made revisions to rent control policy, and they have liked to say this regardless of whether it was the NDP, the Liberals or the Conservatives. There is little evidence in the years of rent control that supports these concerns, and I would like to refer the gentleman to the Kingston Public Library, where there is quite a bit of information and studies available on rent control. There is no evidence that controls destroyed the supply of rental housing in Ontario. Construction of new buildings continued. Most of the rental buildings have been kept in reasonable repair, as the studies indicated, and it was difficult to find in any of the studies that I read a reference that landlords have been economically disadvantaged by rent controls.

The people of Ontario expect their government to protect their rights as consumers. Rent control has had its greatest success in protecting the consumer, the tenant. Controls have ensured their security of tenure and protection from economic eviction. Controls have been successful in preventing rent gouging and the cases cited are only on an individual basis. Controls have helped to stabilize rental costs and therefore helped to keep inflation rates down in Ontario. The government of Ontario must continue its role in consumer protection.

There have been problems for landlords and tenants with previous rent control acts. Landlords have found that rent review administration has been burdensome, and tenants still remained the victims of loopholes in the acts.

I would like to give you an example of one that I experienced in Kingston. It was a few years ago when I was looking for an apartment and I came across a landlord who was renovating an apartment. What they were doing was building a wall between a kitchen area and a dining room area and they were installing a sink in a bedroom. It was a two-bedroom apartment with a bathroom in between, but they were putting this sink in one of the bedrooms. It was just blatant that the landlord was doing these major capital renovations in order to increase the rent above the rent review guidelines. This loophole has been closed under the act, and I think correctly so.

The Rent Control Act of 1991 advances the rights of tenants to safe and secure housing. It promotes the health and safety of tenants by ensuring that rental properties are maintained. The policy encourages landlords to be proactive in planning for capital expenditures and should thus reduce capital expenditures over the long term. It does not address the concerns raised by the gentleman who spoke before me about his present situation.

The act also makes provisions to prevent tenants from bearing the burden of the financial speculations of landlords. I think that this policy reflects a philosophy that rental housing is more than a box in which people live, that these are people's homes. This measure has no doubt caused the greatest concern for some landlords, and particularly the more speculative among us. However, the provision of the act which excludes new buildings from rent controls for five years should alleviate some of their concerns. The landlords will still be able to secure a reasonable return on their investments under this act.

The Rent Control Act of 1991 addresses the issues of affordable housing by establishing a guideline which is reasonable for both tenants and landlords. This guideline will have its greatest effect on middle- and lower-middle-income tenants, as have previous rent controls. Again, the gentleman's point that was raised before, that rent control, in the history of its 16 years, has really had very little effect on low-income people—that is just a fact.

Affordable and attainable housing is the major issue for low-income tenants and this act does not address this issue and neither have any of the acts before it. These tenants still await the government's actions on their concerns. Thank you very much.

The Vice-Chair: Thank you. Mr Tilson.

Mr Tilson: You say you are a very small landlord. Does that mean you own a house?

Ms Rouse: I own a house and I rent part of my house.

1150

Mr Tilson: Okay, that is what I assumed. We have heard testimony from financial people, financial institutions, real estate people who have connections with financial institutions, and one of the concerns that has been expressed to us is that the financial people, as a result of this legislation, will be putting perhaps more onerous standards or requirements on people who are seeking loans to purchase single-family houses, or houses, whether they are legal accommodation or not. They will be putting more rigorous standards on those loans, either for purchase or for capital improvements or otherwise. Does that give you some concern, as someone who represents that type of landlord?

Ms Rouse: No, it does not. I think that for people like myself who rent out part of their homes, the tax benefits—it is actually the only way people of my income could even afford to buy a home. You have to rent part of it. It is based on the proportion of the house you rent, so you can deduct from your overall income that portion that you rent. I found that it has really made owning a home affordable.

Mr Tilson: The type of suggestion that has been made is that there might be a clause inserted into mortgages that says that if you rent out your facility or your house or part of your house to anyone else, your mortgage will forthwith become due. That is what has been suggested. It is because

of the fear of the standards being reduced that are necessary for repairs and those types of things which are the concerns of the mortgage institutions.

Ms Rouse: I have not had that experience.

Mr Tilson: I am sure you have not.

Ms Rouse: I do not think that would be affected by this policy.

Mr Tilson: That is what we have been told.

The Vice-Chair: Mr Mammoliti.

Mr Mammoliti: Mr Chairman, I am going to pass my time up to Mr Wilson, if you do not mind.

The Vice-Chair: Sure.

Mr G. Wilson: Thanks a lot, George.

For a small landlord, you certainly have a large vision. In particular, I want to highlight the sentence, "This policy reflects a philosophy that rental housing is more than a box in which people live, that these are people's homes." In your case, you have, I guess, quite close contact with your tenants. I was just wondering what your feeling is about promoting better understanding between landlords and tenants. We were addressed first this morning by a group called UTOO, United Tenants of Ontario, and I was wondering whether you see that as a hopeful development, to have more tenants' associations that can organize and then become more articulate and address landlords directly from that basis.

Ms Rouse: I think so. I think if landlords and tenants meet and discuss and learn to respect each other more, then for landlords it means that your property is better maintained, because your tenants are not damaging; this place is actually their home, and people usually treat their homes better than they treat rental units. I think that policies or programs that encourage that kind of communication where people meet as equals and with respect for each other can only reduce your cost as a landlord.

Mr Mammoliti: Mr Wilson asked my question; that was fantastic. But I also wanted to apologize to you. If it kind of looks like we are asleep here, it is because the fire bells were going off all night. Actually, we all ran out in the hallway with our pyjamas on looking for the Speaker. We thought we were being called for a vote.

How do you get along with your tenants?

Ms Rouse: I think that there are the same kinds of conflicts that incur in any tenant-landlord relationship, which is a lot around maintenance and speed of maintenance and those kinds of things, but very well. I think when you share your home with somebody or when you are in that position, both the tenant and the landlord have to choose well.

Mr Mammoliti: The communication is there?

Ms Rouse: You have to communicate and you have to develop a relationship based on respect and be consistent. Both the landlord and the tenant have to be consistent.

Mr Mammoliti: Have you ever thought about having your own seminars for landlords, holding your own seminars on how to improve communication?

Ms Rouse: I do not think I am a big enough landlord yet.

Ms Poole: Thank you for your presentation today. I would like to discuss with you this sentence in your presentation: This act "promotes the health and safety of tenants by ensuring that rental properties are maintained."

If this legislation truly did that, I would have a lot of my concerns alleviated, but landlord after landlord has come to our committee and said that this legislation is driving them to the point where they are going to do the absolute minimum. I have had landlords in my own riding, whom I consider to be very good ones, who have good relationships with their tenants—tenants even write to me and say how good they are—who have said they are fed up; they do not trust this government.

They do not trust the fact that this legislation provides significant rent penalties for neglect without even giving us a definition of neglect in the legislation itself and we are asked to pass this without knowing what it is.

They have been very upset about the provisions surrounding the work orders and the fact that they are given no right whatsoever to talk about extenuating circumstances, such as if the repair is seasonal, whether there is a construction strike, whether there is an underground parking garage that is twice as bad as they thought it was going to be initially when the work order was put on. These things are not even allowed to be discussed. There is an automatic rent penalty as soon as that director sends out the non-compliance notice and issues that rent penalty and it cannot be complied with.

I am afraid that the opposite is going to happen. Instead of going along the route, as you said in your brief, where most landlords do maintain their properties, that will have them drawing in their horns and saying: "I'm not doing anything under this government for the next four years. I'm going to wait until we have a new government." Does that type of talk concern you?

Ms Rouse: I do not think it is unusual, from the reading I did when I prepared for this. That type of talk has occurred at every single hearing that I read, or in the reports. Despite that type of talk, I think good landlords still want to maintain their buildings. You want to attract tenants and you want to keep them happy. I think the problems are if in fact in this legislation those issues are not dealt with in a flexible way, and I think this legislation does provide for some flexibility.

The issues you raised would concern me, but I still think that extenuating circumstances, like an increased expense—because when you go into a building and you are repairing something, it is true you do not necessarily know how much damage has been done. But if you can document that and support your argument, then I think your argument should be heard and I hope that there would be some forum for that.

The Vice-Chair: Thank you. We appreciate your appearing before the committee this morning.

That completes this morning's scheduled presentations. I would remind members that we will start those presentations sharply at 2 o'clock this afternoon.

Ms Poole: Mr Chair, on a point of order before we adjourn the hearings for this morning's session: When this committee was given its mandate to look at Bill 121, the week of September 16 was made available, if the committee wished it to be, for clause-by-clause.

Our party and the Conservative Party have been going on the understanding that we would be having clause-by-clause for that week. We now understand that three of the government members have personal plans and will not be available that week and that they will not be able to give us a definite answer whether they are even willing to proceed until we are in the middle of next week.

I think we should discuss this as a committee and as a full committee. The last time we had a subcommittee meeting, we had an agreement about witnesses who were to appear. We compromised. Both the Liberals and the Conservatives supported the compromise proposal put forward by the NDP, and the very next day they reneged. They stabbed us in the back and put forward an additional witness who was not on the list.

I am afraid I would insist that we deal with this in full committee.

Mr Abel: There was an agreement, there is no question about that. The opposition wanted a building inspector; they got it. They wanted somebody from the Ministry of Financial Institutions; they got it. A motion was brought up by Mr Tilson to bring somebody in from Quebec. We agreed. We have been more than obliging as far as scheduling goes. We asked for one, and then they play their little games. They get up and they leave. Let's get things into perspective here.

Mr Tilson: That is two of six people.

Interjection: Remember when you all headed home?

Mr Abel: Anyway, getting back to—

The Vice-Chair: Mr Abel has the floor.

Mr Abel: Thank you, Mr Chair. May I continue?

Interjections.

Ms Poole: The issue at hand, I think, is whether we are going to sit—

The Vice-Chair: Mr Abel has the floor.

Ms Poole: He turned it back to you.

Mr Abel: I did not turn it back to—

Mr Perruzza: You interrupted her.

Mr Abel: As far as getting into clause-by-clause is concerned, we have no problems discussing the issue, but we are not able to pin down a time this afternoon. I was talking to the chief government whip yesterday trying to pin down a time. She did not have an answer and will not have an answer until the beginning of the week. If you want to discuss things, fine, but we cannot pin down a time today.

1200

Mr Tilson: Who is calling the shots here, your whip or you?

Mr Abel: From what I understand, there is some discussion between the House leaders.

Mr Winninger: You need government members.

Ms Harrington: We are a committee of the Legislature.

The Vice-Chair: Mr Mammoliti.

Mr Mammoliti: Mr Chairman, as you know, I have ultimate respect for your decisions as Chair. That is why I would like to ask you for the record as to whether this was a point of order or not. Please rule on that for the record.

The Vice-Chair: I am not sure whether it was a point of order or not, but it is in order that we discuss the business of the committee, so whether or not it was a point of order is rather irrelevant to rule on.

Mr Mammoliti: She raised it as a point of order.

Ms Poole: I did not bring it up on a point of order.

Mr Mammoliti: Yes, you did.

Mr Winninger: You did. You said that.

Mr Abel: It will be in Hansard.

The Vice-Chair: I do not see that it is useful to debate whether it was or it was not. She was in order to discuss the business of the committee.

Mr Winninger: Point of order, Mr Chair.

The Vice-Chair: Yes. We have a point of order from Mr Winninger.

Mr Winninger: Members have been ruled out of order because their alleged point of order was not a point of order. I think it is perfectly fair, for the record, that you rule on whether that was a point of order, because I feel it was a point of information.

Ms Poole: He just did.

Mr Winninger: He did not.

Mr Mammoliti: No, he said he was not sure.

Ms Poole: He said it was in order to discuss the committee's business.

Mr Winninger: He said he was not sure. Let's have a ruling.

Mr Abel: Did you not say "a point of order"?

The Vice-Chair: Ms Poole was perfectly in order to raise the issue. There are no witnesses waiting; the business of the committee has to be ordered. I do not think Ms Poole particularly is worried about whether that was actually a point of order or not and the Chair certainly is not worried about whether it was exactly a point of order. If we are going to be hung up, I am going to rule it was a point of order just to go on to the next stage. Do we have some more debate?

Mr Tilson: I think the issue raised by Ms Poole is certainly valid, because somewhere before this day ends the Chair will have to be given guidance as to where we are going next. We know we are going to be hearing from the ministry staff on certain questions that have been raised, and that will take place prior to clause-by-clause to assist us in making our proposed amendments. We know that we are going to be hearing from some authority with respect to rent control from the province of Quebec, again, to assist us in consideration of potential amendments to assist the government in this legislation, and finally, you will need to know as Chair when you are going to adjourn these proceedings to. Do we adjourn the proceedings to this week of the 16th? Do we adjourn these proceedings to

when the House resumes? So I think that it is most timely that Ms Poole raises this issue at this time.

The Vice-Chair: Mr Tilson, just for clarification, it is not up to the Chair to make some of those determinations; it is up to the committee to do that. It is possible under the rules for the committee to adjourn to the call of the Chair. So that would also be in order, rather than a specific time.

Mr Tilson: I am quite aware of that. We all have agendas to prepare for, not only in our ridings but at the House. Certainly we need to have some advance determination as to—

Mr Perruzza: On a point of order, Mr Chairman: You gave Mr Tilson the floor. Mr Tilson spoke his mind. He referred it back to you. You as Chair were about to make a ruling. I had my hand up; Ms Poole had her hand up as well. You finished speaking, Mr Tilson rudely interjected again and took the floor without you giving him the floor. Is there going to be a process we are going to follow here or are you just going to rambunctiously go around the tables here and people can just jump in whenever they feel like jumping in? I know that Mr Mahoney has been quite good about this. He has just been sitting back and taking it all in—

Mr Mahoney: I am just totally bored with all this nonsense.

Mr Perruzza: —but once he gets into it, Mr Chairman, you are going to have a real problem on your hands.

The Vice-Chair: Thank you for the advice. The Chair can recognize whom he chooses. Ms Poole.

Mr Perruzza: Mr Chairman, Mr Tilson was out of order and I think you should rule him out of order for interjecting.

The Vice-Chair: I appreciate your advice.

Ms Poole: Mr Chair, I am hoping we can actually talk about the substance of whether we go into clause-by-clause. The problem I see is that both the previous minister and this minister want to have this legislation passed by the end of this year. Once the House is back in session on September 23, this committee is authorized to sit what would amount to four hours a week. We took two full weeks on clause-by-clause for Bill 4, two full weeks where we had from 10 in the morning until 6 at night to sit, and in that eventuality we had to rush to get through.

If we have this bill, which has 130 clauses to go through, only one less than the RRRA, which you said was so complicated and so complex and so convoluted, how are we going to be able to do that and have the bill back to the House for third reading debate unless we sit that week of September 16?

We have had four weeks for the government to consider whether it was or was not going to go into clause-by-clause that week. Notice was duly given by the committee four weeks ago and I fail to see why they cannot let this committee know how we can arrange our business. If we wait until next week, there is no opportunity for the committee to discuss it and for us to have any opportunity to influence the government decision. I do not think that is very democratic.

Mr Abel: You can do that right now. There is nothing stopping you from doing that right now. You do not have to know an exact date. What is precluding you from sitting down with your colleagues? Not a thing. Let's get real.

Ms Poole: Because there are more of you on this committee than there are us and you will determine what happens.

The Vice-Chair: One at a time, Ms Poole.

Mr Abel: Then it is easier for you to get together.

Ms Poole: If we do not have the decision it does not matter.

Mr Abel: All you want is—

The Vice-Chair: Ms Poole—

Mr Abel: Sorry, Mr Chairman.

Ms Poole: You are not sorry.

Mr Perruzza: Mr Chairman, I do not understand why both the opposition and the Conservative Party are forcing this issue. This has always been resolved amicably in the past. With every committee I have sat on, the subcommittees meet and work out a timetable.

A suggestion was taken the other day and we undertook it in good faith when Mr Tilson stepped forward and said, "We would like somebody in from the province of Quebec to explain to us the rent control system." We as a party sat back and said: "You know what? He makes good sense on that, because we'd like to know about that as well, although he may have a card up his sleeve." I do not doubt for one minute that that card will be flushed out when the day comes. I guess we will have to call him on that when that happens, but we took that on good faith because in a genuine effort we would like to hear from somebody from the province of Quebec about its rent control system.

We did not establish a date for that. Mr Tilson should have put a date on that and then we probably could have borne down and talked about the nuts and bolts of his motion. We did not do that. We simply accepted it. Everybody in this committee understands the process on how we go about establishing dates for committee meetings. We all sit on a number of committees. We all have a number of other responsibilities. Granted, on the government side we probably have some responsibilities over and above those of the opposition members and the third party. Usually these matters are referred to the three House leaders of the three parties, the Liberal, the Conservative—

Mr Tilson: So what is your point?

Mr Perruzza: —and the NDP House leaders, they work out a timetable and yes, it is worked out through the offices of the whip. We have the Liberal whip here with us and he could probably speak to this far better than I in terms of process, of course.

Mr Mahoney: No doubt.

Mr Perruzza: I do not doubt that for one minute either, Mr Mahoney, but you are here and you may want to shed some light on this. We cannot give a date now, not that we do not want to undergo the process. I think our whip has spoken to that issue. If it is referred to the three House leaders and through the whips' offices, dates will be provided

on when you can have the government members sitting again at this committee. Your whips and your House leaders will determine when they will be able to have members sitting on your side of the table so that we can get on with the business of the committee. I do not see anything wrong with that. To grandstand and to try to make a point when a point does not need to be made—

Ms Poole: Give me a break.

Mr Perruzza: Look, it was not this committee that took off, where was it, from Windsor, who got on the bus or on the plane or wherever they got and just simply left the show. It was not this group of people, it was that group of people on that side. So if you want to be frank with the people who have come here today, let's put all the cards out on the table. I think they should be apprised of that as well.

Interjection: Who is next?

Mr Abel: Mr Chairman, I—

Ms Poole: Mr Chair—

The Vice-Chair: No, I have a list. Mr Abel.

Mr Abel: Thank you, Mr Chair, I will pass on to the next speaker.

1210

Ms Harrington: Ms Poole raised the problem and the difficulty and I understand why she has done that. We too are aware of the timing difficulties. I would like to go back and say that you have spoken of the ministry's rush to try to get that through, the ministry's position. That of course is the ministry's position. It is not this committee's position; it is not the Legislature's position. We will have to hear from the minister herself to know exactly what the minister wants for the months ahead.

I would also just like to say that we are a committee of the Legislature and it is my understanding that we work with the House leaders to see the procedure of the legislation as it goes through the process, to direct where it goes and how it goes. So I think there are two things that we do not have yet: the minister's direction and also the Legislature's direction. We are at the will of both because we are a committee of the Legislature, and we certainly do want to accommodate everyone. So we cannot tell you a date today.

Mr Mammoliti: You know, short of crying, I think that the opposition, both opposition, has done everything to try to discredit us and to absolutely—

Ms Poole: Golly gee, have we done that?

Interjection: Waste our time.

Mr Mammoliti: —waste not only this committee's time but the government's time, yes. I am a rookie at this, there is no question about it, and you have proved to me that, yes, you are a bunch of sucks. You do—you are—

Ms Poole: Mr Chair, point of order.

Mr Mammoliti: You are children.

Ms Poole: That is totally unparliamentary.

Mr Mammoliti: You are just like children.

Ms Poole: We do not have to discredit you. You are doing it yourself.

Mr Mammoliti: Why do I always get interrupted, Mr Chairman?

The Vice-Chair: Maybe you would like to reconsider your remarks.

Mr Mammoliti: What is wrong with the remark I made, Mr Chairman? Is it not parliamentary?

Mr Grandmaître: It is stupid.

The Vice-Chair: I think the words are insulting and abusive of a member.

Mr Abel: What about "stupid?"

Mr Grandmaître: The remark is stupid.

Mr Mammoliti: Are you asking me to?

The Vice-Chair: I was just suggesting you did.

Mr Mammoliti: No, I will not take it back unless you ask me to. I still think they are sucks, but if you ask me to, it is different.

The Vice-Chair: That is great for decorum.

Mr Mammoliti: They have proved to me over these hearings that they are doing—

Ms Poole: When my children were six years old they used that term. I am glad to see you are in good company.

Mr Mammoliti: Yes. This proves to me a little more—and I am glad I got into politics to try to stop this sort of behaviour. It is absolutely incredible. What you did in Windsor is absolutely incredible, leaving us and heading out to the airport, stranded. We met as a committee and all six of us were there; you were not. We had a vote, a very important vote, at that point.

Ms Poole: You went on the same plane we did.

Mr Mahoney: You sat beside me, George.

Mr Mammoliti: You left and you proved to me—

Mr Mahoney: George, you bought the beer.

Mr Mammoliti: Mr Chairman, for the record, I would like them—they are out of order.

Mr Perruzza: Mr Chairman, we had better break for lunch before Mr Mahoney gets into this.

Mr Mammoliti: I have something to say—

The Vice-Chair: Continue.

Mr Mammoliti: —and I keep getting interrupted here and I am frankly getting very annoyed. I have never raised my voice at this point, and I am not going to. I am not going to stoop as low as Mr Mahoney and his antics.

I would like to just close by saying that we are not opposed to meeting on the 16th. What we are saying is that we need a little bit of time. We have to communicate. I know that you do not know how to communicate. You have proved that over the past six years, seven years, how long you were the government, I do not know. It was absolutely an incredible time for everybody in Ontario, anyway. But communication is important to us—communication both with the opposition and with our own people back home, our government, our whip. We know that we have to go back there and we have to talk and find out what they think. If you cannot handle that—

Ms Poole: I cannot handle you.

Mr Mahoney: I will handle George.

Mr Mammoliti: —then step down off the committee, because you obviously have some sort of a problem, and I do not know. Perhaps I can refer you to a counsellor of some sort, Ms Poole. I do not know.

Mr Chairman, again, I will close by saying that I am really disappointed in the way the opposition have handled themselves. I think it is short of my own three children and how I deal with them sometimes, but thank you for listening to me. I appreciate it.

The Vice-Chair: Mr Mahoney.

Mr Mahoney: I would like to thank all the government members for their sage wisdom, obviously built up with the great length of experience they have accumulated sitting on committees and in the Legislature.

Mr Chairman, could I point out, as the chief whip for the official opposition, that my office has not been contacted about a change in the schedule, that I fought at some length with Mrs Cunningham—I was there this week—

Mr Perruzza: So you know how it works.

Mr Mahoney: —with Mrs Cunningham, the Conservative whip, and with the chief government whip, I fought at some length to provide four weeks of hearings because of the number of people who requested to come before this committee. Therefore, our option was to create an optional week at the choice of the committee. Now my understanding is that the majority of the committee have some difficulty sitting that week and are not either prepared to do it or want to put forth some alternative.

By the way, this committee does not await direction from the minister. If this committee starts awaiting direction from the minister, then I will step down from the committee, and so I am sure will all members of the opposition. We are equals. You represent the government side, we represent the opposition. We have a job to do and you have a job to do. This kind of silly name-calling is degrading to the profession that you folks fell into on September 6. I would suggest we clean it up.

Your whip should be in touch with me and with Mrs Cunningham of the Conservative Party to discuss a request by the majority members of the committee to change the sitting schedule. We have a week set aside. If you are unable to sit that week, say so. If you are unable to get subs to sit for you out of the 75 members of your caucus, say so. If you do not wish to meet that week because you do not want to work, say so.

Mr Perruzza: This is exactly what you were thinking in Windsor. You said that in Windsor when you got on the plane.

Mr Mahoney: Mr Chairman, the issue we would just simply like to know—and Ms Poole has raised the issue, that this should not go to a subcommittee.

Mr Perruzza: Like little kids.

Mr Mahoney: This should not go to a subcommittee. Give him something to hold on to, would you, your hand or something, so he does not get so excited.

Ms Harrington: We will have the whip contact you this afternoon.

Mr Mahoney: That would be just fine, but you should tell us. We have to order our affairs and we, in our caucus, have set aside that week and if any of us cannot be there for all or part of that week, we will arrange for a substitute. That is the normal process. That is also the process you should follow.

Mr Mammoliti: That is what we are looking for too.

Mr Mahoney: We need to know obviously before the committee breaks. We do not want to get a memo as committee members telling us that the clause-by-clause is being delayed for several months or that we are not going to get an opportunity to put forward our amendments or that we do not have an opportunity to hear the invitee from the province of Quebec who was graciously agreed to, after you tried to ram something through in Windsor. But in any event, the issue very clearly is scheduling. You are the majority. Ms Harrington, you do not await the minister's direction. You may, within your role as a member of the NDP caucus, take your orders from the minister, but this committee sure as hell does not. This committee is empowered to order its own business. In fact, it is our responsibility to order our own business and not take direction from a minister.

So I would be quite delighted if this afternoon the government members wished to give us an indication they are not prepared to meet that week which has been set aside. Then I will sit down with the government whip and the Conservative whip and see what alternative arrangements can be made, but no one has contacted me about this, and they cannot make that decision, quite bluntly, without doing that.

The Vice-Chair: Thank you. Mr Abel.

Mr Abel: Thanks, Mr Chair. I would like to thank Mr Mahoney for his little sermon, but from the very—

The Vice-Chair: Again, I think we are getting the seeds of an agreement here.

Mr Mahoney: Let him go.

The Vice-Chair: Okay.

Mr Abel: From the very beginning I tried to indicate to this committee that we are trying to pin down a time. I did say we were not able to pin down a time at this very moment. There is a wonderful invention called the telephone—

1220

Mr Mahoney: Can you tell us this afternoon?

Mr Abel: —and if we are able to pin down a time this afternoon, fine, we will let you know. If we are not, then unfortunately it will have to wait until the beginning of next week. That is all we are saying. We realize we have to find a time, but how can we commit ourselves to something when we just do not know when that time frame is going to be?

Mr Mammoliti: They are liable to walk out anyway.

Interjections.

Mr Abel: That is it, Mr Chair.

Interjection: You never know what they are going to do.

The Vice-Chair: Fine. Ms Poole.

Mr Perruzza: I think we should adjourn for lunch and come back on a full stomach and maybe we will accomplish something.

The Vice-Chair: The Chair has some interest in trying to get this issue somewhat resolved. As we all know, we have a very taxing afternoon. If we are going to have the discussion, I would rather have it now than have it at 5:30 this afternoon. I think that is in everyone's interest.

Mr Mahoney: Maybe if we went to lunch we could get some brain food.

The Vice-Chair: But I see that there seems to be an agreement between the official opposition whip and the government that there is going to be a discussion this afternoon and that if possible we are going to know before the end of sittings today what the arrangements are.

Mr Abel: If it can be arranged, yes.

The Vice-Chair: Okay. Ms Poole, if you can be helpful.

Ms Poole: Mr Chair, I will be extremely brief. I just want to make two points. One, I believe Ms Harrington was not in when Mr Mahoney suggested that this afternoon all three parties will contact their whips and resolve this matter, so by the end of the day we can have some idea whether the September 16 date is viable or not. The second thing I wish to state for the record is that when the Liberals and the Conservatives walked off committee in Windsor every presenter had been heard. As far as our two caucuses were concerned, the business of the committee was completed because the sham and the mockery—

Mr Mammoliti: There was a vote.

Ms Poole: There was a vote, which you knew—

The Vice-Chair: I was going to suggest we do lunch.

Interjections.

The Vice-Chair: Mr Abel.

Mr Abel: Thank you, Mr Chair. I think we had better get things into perspective here. A vote was called. It was Mr Mahoney I believe who asked for the 20-minute recess, regardless of the fact that all members were present. They were trying to kill 20 minutes to give them time to leave, jump on the plane and go home. They knew we were going to stay and vote, yet they were probably hoping we would miss the plane. Well, it did not quite work. That is the fact. You called the 20 minutes unnecessarily and we went through the motions and you took off and left. So make sure that is clear.

Interjection: There we go. Time. Let's go.

Interjection.

Mr Abel: I am glad that you feel guilty, because you sure as hell were.

Mr Mahoney: The only disappointment I had was that you guys made the plane.

Mr Abel: Thank you and I am glad you enjoyed Mr Mammoliti's company on the plane.

The Vice-Chair: The committee will recess until 2 o'clock.

The committee recessed at 1225.

AFTERNOON SITTING

The committee resumed at 1358.

RALPH WIRSIG

The Vice-Chair: Our first presenter is Ralph Wirsig. The committee has allocated you 15 minutes for your presentation. If you would begin by introducing yourself and any organization you may be representing, then you may begin your presentation.

Mr Wirsig: My name is Ralph Wirsig. I represent myself and my wife. We are both part-time small landlords. My specific aim this afternoon is first to briefly outline my personal predicament resulting from Bill 4 and Bill 121 and, second, to make a few observations as to the direction these NDP policies are taking this province.

As to what my efforts will achieve this afternoon, on the basis of responses to my letters and previous presentations to the NDP government, I have no reason to expect that the government's course will be affected one iota by what I have to say directly. After all, the NDP obviously has an agenda and it is staying the course. It is, however, very important, I believe, that the general public become more informed about what the NDP's agenda is. This being a public meeting, I am hoping my presence here will at least help a little bit in this regard.

My specific situation is best summed up in my recent letter to Bob Rae. I will read that now.

"Dear Sir:

"My wife and I have been part-time small landlords for several years with a view in the future to supplement our income after retirement with profits"—or you might better say earnings, because we are going to continue working at it—"from our rental operation. In summary, our situation is as follows:

"We currently operate two 16-unit buildings after purchasing the second building on February 1, 1990.

"We purchased the second building for a price far less than the cost of constructing a new building and we knew we would have to invest additional money to bring it up to acceptable standards.

"We purchased that second building under the rent control rules of the day which allowed phasing in of rent increases to cover financial loss. Our plan was to use the financial loss provisions to get the rents up to cover both the financial loss and to make the needed improvements."

We chose to do it that way. We were not going to go through the rent review procedure to cover maintenance costs, such as carpets, which we could have done.

"We proceeded with the plan and in July 1990 we obtained a rent review order for approximately a 20% increase above the guideline increase to be phased in over five years.

"The 1990 increase was phased in but then of course the remaining four years of the phase-in were cancelled by your NDP government.

"We are in a serious loss position and will continue to be so for many years beyond the previously forecast break even in year five.

"We are continuing with much personal labour to upgrade the building, with intensive maintenance which probably cannot be classified as capital expenditures and thus we have no recourse to recover some of the lost rental increases. We are avoiding major expenditures wherever possible.

"Our plans to do capital improvements on our first building are cancelled; eg, the fridges and stoves are over 25 years old.

"With all that has happened and what the future holds for rental property under your government we are very discouraged. We understand why other people we know, who are in a similar position, are considering walking away from their buildings. In our case we would lose $150,000 to $200,000 of hard-earned cash." We are working people.

"Our plans to retire within five years are at minimum on hold and probably dashed."

Just to make sure there is no misunderstanding, I have been in the workforce for over 31 years as an engineer and I had a substantial working life before that.

"In conclusion I must state that our purchase of the second building was at that time a sound but not lucrative investment that would have benefited everyone, especially the tenants, as we have substantially upgraded the quality of the building maintenance, supervision and management. But with the election of your government it has become a major source of hardship to us. A key problem for us is the (I believe) illegal cancellation of the phase-in. If this is not reversed your government should be required to compensate us for the losses you have forced upon us. For example it may be your government should be required to purchase the building at a fair price, which would still be less than the replacement cost.

"I would like to receive your response on how we should deal with the difficult situation your government has put us in."

I will not go into the reply, because it is not worth it.

In short, the situation for building owners in Ontario is as follows: We have a major investment of buildings and land whose product is rental accommodation. The NDP government has told us what we may charge for that operation, for that product, which in most cases is below the cost of operation. While they are decreasing our revenues on the one hand, they are increasing our costs yet further on the other hand by bringing in more complicated controls and added controls, such as the elaborate maintenance and maintenance enforcement rules.

Rent controls were bad enough before. Now they are so bad that investors will no longer respond to the demand and need for more rental accommodations. The concept of market economy for rental housing in Ontario is no more. It is clearly dead. The inevitable result is that the taxpayer will be required to foot the bill for both investment and operating cost losses for what will need to be a massive government-run housing enterprise, and we all know how effectively governments run enterprises.

The situation reminds me very much of some of the life experiences of an aunt and uncle of mine, who live in

what was once East Germany. When their new government came into power, in the late 1940s, their situation was as follows: Just like myself, they too had investments of land and buildings. Their product was farm goods. Their new government said: "Fine. If you wish, you may continue to operate your enterprise, but here are the prices you will deliver your products for." Those prices, of course, were below the cost of production.

"Additionally," the government said, "you will be required to keep your land and buildings in good repair, and to be sure you do, the inspector will be around periodically to check. When he is not around, there are plenty of neighbours around who will keep us informed. Alternatively, you have the option of signing the property over to the local co-op which, in return, will give you a salaried job for life." So maybe there is hope for me in my retirement.

Needless to say, everyone eventually lost their enterprises to the government co-ops. I visited there two years ago, just at the time when the young East German families were leaving that area and starting to cross the border into Hungary. You might say it was the first hole in the Berlin Wall. There was still at that time, though, a prominent sign at the local co-op farm near my aunt and uncle's place. It said something like this: "Socialism is almighty, because it is the truth." After 40 years, that sign is now finally gone and the country is in turmoil as it finds its way back to a market economy. This is now 40 years behind their brothers, sisters and cousins in West Germany.

While the old signs are down, new signs are up, among them one in East Berlin on a statue of Lenin—perhaps it was Marx—which pathetically proclaims, "Sorry, it was all a mistake." For Ontario and for all of us who live here, I sincerely hope we do not have to wait 40 years to hang up our sign, "Sorry, it was all a mistake." Thank you for your attention.

The Vice-Chair: Thank you. We have about five minutes for questions in total.

Ms Harrington: Thank you, Mr Wirsig, for coming forward. A couple of things: You first of all read the letter explaining your situation. We have heard from many small landlords on our trip around the province, and that is what our visits are for, to find out the reality across Ontario. We are aware of the situation of some of you and we certainly are not going to deny that reality. I have spoken with the minister about this and we will consult further.

The picture that you have just drawn of eastern Europe is certainly a dramatic one. I think we all understand what you are saying, but let's be real. This is Ontario; we have had a democratically elected government; the people of Ontario have very strongly said they want change; they wanted change for the better, and that is why this government is here. It is up to us to prove in the next four years what we can do for the people of Ontario, and then it is their judgement on us that we all know is the outcome.

We are facing very tough times. This has been a tough year of recession, and we are going forward now in the fall to come to grips with some of the many realities in this province: The restructuring of the manufacturing sector; the constitutional problems of this country; trying to rein in what we inherited, a massive bureaucracy—education, welfare; we have to come to grips with it.

1410

Mr Mahoney: The man has gone broke and you are worried about all that?

The Vice-Chair: Order.

Ms Harrington: He talked about eastern Europe.

Mr Grandmaître: And you are trying to find excuses.

Mr Duignan: You are the excuse.

Mr Grandmaître: Your submission sounded as if you and your wife are a very desperate couple. You will be losing all of your life savings if the government does not respond to your needs; not only your needs, but to other small landlords' needs.

In your opening remarks you talked about the NDP agenda. Can you give me your thoughts on the NDP agenda, because we do not—

Mr Wirsig: To me it looks as if they are aiming to do the same things that happened to my aunt and uncle. They are on the same path at this point. As far as rental housing is concerned, they are dead on course. More specifically, they want to get investors out of the rental accommodation business, and I think the taxpayer needs to understand that it is the taxpayer then who has to put forth that investment; that the landlords or the investors are not going to. The funds have to come from the taxpayer for not just the investment, but also for the operating losses that they are going to result in.

Mr Tilson: The government of course will say, with respect to the second building, that you made a bad investment, and they will secondly refer to section 16. I do not know if you have had a chance to look at that; that is the transition section to allow for some compensation to those who received difficulties under Bill 4.

Mr Wirsig: It does not apply to me.

Mr Tilson: That is my question. Have you had an opportunity to look at section 16, and could you tell the committee how section 16 affects you, if at all?

Mr Wirsig: I am not familiar with the sections. I used to handle my own rent review years ago, but it is so complicated now that I hire a consultant. My consultant tells me I cannot do anything with regard to that 16- or 18-month transition period.

Mr Tilson: Yes, thank you.

The Vice-Chair: Thank you, Mr Tilson. Thank you for appearing today. We appreciate your presentation.

SUSAN HISCOTT-SCHOP

The Vice-Chair: The next presentation is Susan Hiscott-Schop. Good afternoon. Welcome to the committee. You have 15 minutes allocated. You may use all of that time for your presentation, or the committee always enjoys having some conversation with you during that period. So if you would introduce yourself, you may begin your presentation.

Ms Hiscott-Schop: My name is Susan Hiscott-Schop, and I hope you will bear with me, because I have never done this before. But I felt it was really important that a

variety of tenants appear before the committee, to give you a cross-section of what was happening.

I was on the founding council and served one year with United Tenants of Ontario; that is a total of two years. I have been a tenant for probably two and a half, three years. I have sat on the other side of the table, so I know what some of the landlords are discussing. I am a single parent. I am a full-time Queen's student, and I find that some of the things that are going on here in Kingston are difficult to accept.

I have heard some of the landlords talk about property standards and some of the things they have had to go through, but I can tell you as a tenant, the backlog there is phenomenal and if a landlord pushes the tenants to the point where they do have to complain to property standards, they have to go through a long rigmarole. I know when I called property standards about a leak in my bathroom, my ceiling eventually came through before the property standards could get there. As far as I know, that ceiling is still in the shape it was when I left.

I find that the act in a lot of ways is very complicated so it is not accessible to all. You talk to tenants about some of these issues, and they feel that it is something a lawyer has to do. I am in a position where I think it is about time that landlord and tenant—it is not something that lawyers want to deal with. They want to pass the buck and pass it on to someone else because it is not something they can make any money at, and most of the tenants do not have money to pay them in the first place; so I honestly feel it is something the lay people should be starting to deal with, which would be a cost saving for everyone concerned.

I have heard some of the landlords talk about the GST, and I can understand their hardships and some of the things they must be going through, but I as a tenant cannot pick up that slack. Granted, there are some tenants out there who, with the price ceiling, could probably afford the rents as high as they would go if you started adding additional costs to them, but there are people like myself who could possibly end up out in the streets, and it is all we can do to struggle to keep out of things like subsidized housing.

I tried student housing, and it is put under the label of subsidized housing. Actually, Queen's sort of gives its students a price break. They have come up with this market value and then rent the property to the students at 98% of that cost. I do not know where this market value comes from, but I do know that the private sector rents properties less expensively. I had to move out of student housing because they increased my rent by 15% and instead of paying out 60% of my cheque each month for housing I was going to end up having to pay almost 90%. I really do not understand where they are getting the idea that it is subsidized.

There have been some changes in the law under student housing and, unfortunately, anything under previous legislation that was of any assistance to students, if you could get it enforced in the first place, has now been wiped out. As a student, I find that we have no protection under property standards or under rent controls. These are some of the concerns that are going on in the community that I live in.

1420

Ms Poole: Thank you for your presentation today. You can relax now because you did very well and we appreciated hearing your comments.

One of the concerns that is shared, not only by the government but by the opposition caucuses as well, is the whole issue of maintenance. I guess what we have to analyse on this committee is if this bill takes the right step towards making sure that maintenance is performed in the buildings and, in fact, that we are actually going after the abusers, not the landlords who are doing a fairly good job in their buildings.

One of the concerns I have in this regard concerning Bill 121 is that they have abolished the Residential Rental Standards Board. I do not know if you had anything to do with this in the Kingston area—not to do with the abolition, obviously, but if you had ever in your building had a problem with standards and had the rental standards board involved. The standards board under the previous government was, I think, a very good idea but it did not have teeth in it. For instance, in order for them to put out an order, they had to go through rent review, which ended up being caught in the backlog.

The problem area in Bill 121 is, they have abolished the standards board and put the whole thing through rent review, which I think is moving backwards. I would say, if the problem was the backlog in rent review, then you give the standards board the jurisdiction to deal with maintenance matters. But with it being put back in rent review, if there is a backlog there, you can be assured that it is the rents that will take the first priority and maintenance again will take—

The Vice-Chair: Is there a question there?

Ms Poole: I am just getting into it, Mr Chair. Your timing was impeccable.

Are you familiar with the standards board and how it worked? Would you like to see a separate body dealing with maintenance and rent penalties as opposed to putting the whole thing under the rent review system?

Ms Hiscott-Schop: I am here on a position that I think the rent review system needs to be totally revamped. As I say, right now the system is so complicated that you need to get legal advice on how to proceed through the system and lawyers do not want to touch it. They do not want to be involved, and if you talk like you have any knowledge whatsoever, in other words, if you have got any grey matter, lawyers do not want to deal with it. They say, "Well, you can deal with it yourself."

I myself have had to take many cases to rent review and to Divisional Court, and I find Divisional Court actually works better than the two systems. One was a property standards issue and it was too large. I think you will find that a lot of tenants who are willing to stand up for their own rights are having to go beyond the rent review system because it is inadequate.

The Vice-Chair: Thank you. Mr Tilson.

Ms Poole: Thank you.

Mr Tilson: One of the areas that you touched on was market standards, and it has been my contention that

because, particularly in smaller municipalities, urban municipalities, and to some extent the large municipalities, there are insufficent property standards, bylaw enforcement officials, or whatever you want to call it to deal with these problems. In the areas of the province that do not have any, of course, there are insufficient provincial people to go in and enforce the provincial property standards. My fear is, because of this legislation and what the sections are bringing forward, there will be even more demands on these individuals to enforce very serious problems of tenants in maintaining the quality of life.

I would like you to spend a little bit more time on your personal experience with the property standards officials in this area.

Ms Hiscott-Schop: In this particular area?

Mr Tilson: Yes.

Ms Hiscott-Schop: I think I should take a step backwards. I have just moved to this area about three years ago. Before that I was in the Newcastle area and I dealt with property standards and the public health board there. I spent six to eight months trying to get officials out. By the time I got officials out to my place—now I am talking about what they talk grey water being pumped into an environmentally protected area; I am talking about a septic backup into my well system, and that was the only water coming from the well—it was completely empty.

I finally took it to court. It was a long, involved procedure and it took me almost another six months to get it straightened around. The most concrete thing that I got out of the whole thing was—I had to pay my own expenses, which cost an awful lot of money, and I also got told that I could be released from the conditions of my lease. In other words, I could move.

I started that procedure here and I was advised by the courts and by the property standards to move. This is what tenants are being told when they run into problems. The problem that I personally had was a leaking bathtub and it was leaking down into my main floor. It got so bad that the ceiling eventually fell in. What I was told by property standards was to move, because it would take them too long to deal with it.

Mr Winninger: In my own riding in the London area there have been a lot of problems in enforcing work orders over the last few years. In fact, the tenants I have spoken to there and their advocates indicate that one of the most attractive and appealing features of the new legislation is the tying together of compliance with work orders with the very right to ask for a rent increase. This they see as a way of enforcing compliance with work orders that they were never able to achieve before. That is their experience anyway.

I just wanted to add one point. You mentioned landlords may complain about the extra cost of the GST. It is my understanding that where a landlord purchases goods or services for the purpose of earning income, ie, rent, that they get a rebate back on that extra GST they spent.

Ms Hiscott-Schop: But I hear a lot of landlords complaining about that. It is like tenants do not have to pay the GST.

Mr G. Wilson: Thanks a lot for your presentation, Susan. I noticed you said at the beginning that you were on both sides, or at least you have seen the situation from the other side, which suggests that you could offer a perspective that could point the way towards future relations between landlords and tenants, some of the ways of relieving the tensions.

For instance, you just mentioned the GST, that landlords say they are having to pay the GST. I think the point you were raising is that tenants also have to pay the GST. How can we sort of bring these two views together so there is more understanding about each other's predicament?

Ms Hiscott-Schop: I would like to see more communication between landlords and tenants, more of a civil type of action where landlords and tenants are actually getting around the table and discussing issues, rather than a confrontational way.

I think our legal system here in Ontario always paints a good guy and a bad guy and we are doing a disservice to both sides by doing that. It is about time we recognized there are good tenants, there are bad tenants; there are good landlords, there are bad landlords. If we can all get together and work together by talking about these things, more of a tribunal where you have equal representation from both sides deciding issues rather than some paid government official who maybe has never been a landlord and maybe has never been a tenant, or has one side and not the other. Is that answering your question?

Mr G. Wilson: That is coming to it. Do you think the landlords' and tenants' approach, say, are equally balanced in the resources they have to present their positions?

Ms Hiscott-Schop: No. Financially anyway, a landlord has far more economic resources than a tenant. Landlords have control to a certain extent over their expenditures and their investments and assets, whereas tenants have to pay whatever is being asked. I find—my family will shoot me for this—that if you have a background of money, whatever, behind you, you can get far more done, and I really think the landlords have more of that in their favour. They can pull more strings, they know more people.

Mr G. Wilson: I was wondering if those thoughts occurred to you when you were trying to get that problem rectified in Newcastle when you were trying to get the officials out. Do you think maybe if you had more influence that would have occurred more quickly?

Ms Hiscott-Schop: I really think so. If I had been in my home territory where my family is, and I believe to some extent they still carry a fair amount of weight, I do not think I would have experienced nearly the problems, but because I have decided to become an independent person and try to work things through on my own, I am beginning to find out that does not work.

The Vice-Chair: Thank you. The next presentation?

1430

STEVEN MANDERS

The Vice-Chair: Good afternoon, Mr Manders. You have been given 15 minutes by the committee to make your presentation. You have been here for a few minutes

anyway and have seen how it is done. If you would like to introduce yourself for the purposes of Hansard, then we may begin.

Mr Manders: I am Steven Manders, small landlord. I used to renovate apartment buildings. I am close to bankruptcy because of Bill 4. I spent $250,000 of borrowed money last year renovating apartment buildings. I sat down and visited with all my tenants to see what they wanted for improvements. They filled out the government forms for all the work inside the units, the work outside. There was good communication. These documents are all on file at the rent review office.

The money was spent, the tenants have the benefit. I have now got to pay back the banks. There is absolutely, positively no revenue to cover that, despite everything that has been said that it will be taken care of. I have had to refinance my house at 18% to pay some of my property taxes. The rest go unpaid and I am still fighting off lawsuits. So much for your help. I tried to do it by the law. I am one of the ones who did communicate, played by the rules, stayed within legal rents and so on.

Anyway, my presentation is called "Why the Titanic Had to Sink." I heard a fascinating presentation a number of years ago by a Queen's University professor, whose name I cannot remember, about why the Titanic had to sink. He went into the socioeconomic, technical and other aspects of the ship in a most interesting way. Most books deal with the technical and human errors that were made, but not why they were made.

Back in the days when the ship was built, they had no jets to whisk you across the Atlantic in a few hours, and a ride on a turn-of-the-century ship in a North Atlantic winter was no tropical cruise. That created a market for a very fast, luxurious ship while the passengers endured a lengthy ride.

Any ship that could set new standards for comfort and speed could command a premium price. Safety was important because ships are expensive and they do not want them to sink, aside from the human aspects. As a result, watertight bulkheads were built up to the sixth floor, but not to the seventh, because that would divide the grand ballroom in half, a compromise.

It was imperative that the ship set a world speed record on its maiden voyage, because all the world was watching it and it was built to do it. The captain simply could not slow down for icebergs, but he was unsinkable, or so he thought, so full steam ahead.

What does that have to do with rent review or in particular Bill 121? The Titanic had to sink because it compromised all else to cater to the whims of a very demanding group of people. Rent review is also catering to the whims of a group of people—tenants, rich and poor alike. We have heard from a lot of poor tenants, but the rich ones do not come out and speak at these places for fear of jeopardizing their overall good benefit.

All else was forsaken to cater to these groups. Similarly, rent review is catering to the whims of this group, rich and poor tenants alike. They all get the same benefit regardless of whether their landlord can afford suppressed rents or not. All else is forsaken: adequate supply; quality; maintenance; bankruptcy among landlords, tradesmen and so on. It does not matter. As a result, the entire infrastructure that supports rental property is now sinking or has sunk. But that is the price of rent review.

Landlords have asked the government over the years to subsidize only the tenants in need—there are many of them in need—and let the rest pay market rates. Margaret Harrington stated a few months ago here in Kingston that the government with its billions of dollars could not afford to subsidize the poor tenants, yet a handful of landlords are expected to subsidize all tenants, rich and pool alike, and rent review is the only answer. Think about it, the government cannot afford to help just the needy with their rent, but landlords are expected to help all tenants regardless of their financial ability. If bankruptcy occurs, tough. That is the law. Watch them sink. Watch apartment investment sink.

This government has caused all rental property in Ontario to decrease by 25% in value in one short year. Why should you care? I have that problem. I cannot pay my bills because I cannot even sell my buildings. If a landlord was thinking of expanding, though few are any more, the equity in his existing building is gone so he cannot raise the down payment for a new one. New buildings usually rent at a loss their first few years and it takes the profit of an older building to carry it. If there is no profit in an older one, a new one simply cannot be built. Landlords do not have magic sources of capital, just existing investments and they are needed for their new ones. It is simple. Mortgage companies realize these problems and all require 40% down payments now, about double what was required a few years ago. A landlord with a fixed amount of capital can now build only half as many new units, but he is not trying any more. Watch the supply sink.

Will someone else step in and fill the gap? A rich Arab, a brewer, General Foods, Hong Kong money? No, the supply will have to come from existing landlords, the ones who are already in the business and they know it is a sinking ship. Who will house all these new tenants? That is your problem now.

Remember the names Alvin Curling, Chaviva Hošek, John Sweeney, David Cooke? They were all totally dedicated, enthusiastic and keen about the good ship Rent Review, and they all went down in about a year. They tried very hard to make the unworkable work, and they each in turn learned what they were up against. Have you got them all together to draw upon their experiences? They all had the same goals. They all sank, as you will too.

There has been more effort at writing rent review laws and changing them than any other legislation. Government after government has failed because they ignored the people they were regulating, and it was not the tenants.

The ship met its iceberg with Bill 4, that retroactive legislation that destroyed a handful of law-abiding landlords and their contractors. That piece of legislation did damage beyond anything that ever happened before. Its biggest damage was not just what it did to those caught in its web, but the message it gave all other businessmen. They and their investments will be treated with contempt by this government and they had better hang on to whatever cash they have left, no more investments.

Most buildings do not need to go to rent review, but a few do have to go for major rehabilitation. A 3% increase will not do it. Banks will not lend the money because there is no revenue to cover the cost of borrowing. Men will not work for free. Landlords are not stupid and they know they will be treated with contempt. We are not looking charity. We are just looking to be treated fairly. That means recovering costs spent on behalf of the tenants' benefit.

Bill 121 does nothing to correct this. The whole system is doomed to failure, especially if Bill 121 passes in its present form. It is utterly unworkable for the people who have to work with it. It may work fine for the tenants, but they do not work with it.

The five-year exemption from rent review for new buildings is irrelevant if a landlord has lost his equity in his present building or if mortgage companies will not lend him money, or if there is no feeling that they will be treated fairly after the buildings are built. Will the exemption be removed in only two years? The necessary trust in the future is gone.

The loss of rental accommodation is already recognized by the government in the Housing Framework for Ontario 1991 on page 109. It clearly shows they anticipate the private sector supply to decline by 75% this year. In another year, the entire private and public supply will meet only half the demand. This is after massive infusions of public money into housing. David Cooke's only solution to this crisis of his own making was to force municipalities to legalize basement apartments. That is the last place most tenants want to live. How low can you go? No wonder he sank.

1440

On page 131 of the Housing Framework for Ontario, it shows that existing buildings have a market value of only 70% of new stock, yet we are made out to be the bad guy for this perceived equity gain.

Page 134 shows landlords are not gouging on rents. They are losing an average of $526 a month per unit in Ottawa and losing $236 per month in Toronto. For this, they need more regulation and oppression?

Perhaps there are too many rich and poor tenants looking for a free ride. Everyone likes a free ride. Even politicians like a free ride by trying to buy tenants' votes with landlords' money—and it does not even show on their budget.

David Cooke took great pride in biting the hand that houses the tenants. Suppose a businessman, such as myself, enacted retroactive pay decreases on his employees back to last year, only through necessity of course. Would it be legal? Would it be moral, fair? Would you continue to work for him? You might get away with a Bill 4 in law, but you will lose far more for the tenants in the end. Bill 121 must undo this damage, but it only aggravates it.

You think government housing is the answer? Most tenants want out of it and into the private sector if they could.

Got a spare billion dollars for Ataratiri Place in Toronto, a piece of land in Toronto on a flood plain the size of a hobby farm—80 acres for 12,000 people? It has cost $250 million so far but not one unit has been built. They could house two tenants elsewhere for the same cost as one there, or 15 needy families—subsidize their rent for $1,000 a year for ever for the cost of a single unit there. But that is not what is planned. That is even bad socialism.

Evelyn Gigantes can do no better. Bob Rae has her on the same course: full speed ahead, to hell with icebergs; we have this load of tenants, rich and poor, to cater to and promises to keep. Little compromises will not work any more. Talk will not do it. This presentation will not do it. The ship has to sink with its passengers before serious dialogue will occur. And that is the end of this story for now.

Mr Tilson: The NDP of course have made it quite clear that there will be no new private enterprise construction. They have agreed with you. They agree with everyone else. There will be no more new apartment buildings or accommodation built by private enterprise in the foreseeable future. Their solution to the problem, which you have outlined, is non-profit housing and co-ops. I do not know what knowledge you have of those two areas.

Mr Manders: Is it the most expensive housing there is on the market.

Mr Tilson: That is what my question is. I would like you to comment as to that solution they are proposing.

Mr Manders: It is the most expensive housing on the market. I have tenants in lovely two-bedroom buildings renting for $350 a month. I spent $10,000 a month renovating them last year. My 3% increase will come to $12. In the next 100 years, that will not cover the interest I have had to pay on the money I borrowed. Co-ops—they are generally running $1,500 a month. They may rent for $200 or $300 a month, but the cost is still $1,500 a month. It is the most expensive housing you can devise, because you have all the bureaucracy in there running it. It is even in the Housing Framework for Ontario. It shows that after 30 years, you are still losing money on the things.

Mr Perruzza: How many units do you own?

Mr Manders: About 50. I cannot sell them to pay my bills. There is no market.

Mr Perruzza: When did you buy them?

Mr Manders: I have been in the business full-time now for six years and part-time for about 15 years prior to that.

Mr Perruzza: We had rent controls at that time. Why did you buy them?

Mr Manders: Overall, real estate is a good long-term investment. I was enjoying renovating. I have an old limestone in my house. I knew the rent review rules, and I saw that tenants could benefit by me renovating. I got cost pass-through and over the years buildings would slowly appreciate. My buildings have not depreciated 25%. It is no longer a viable business.

Mr Perruzza: From the time that you bought them? Or from last year?

Mr Manders: Yes, sir, even though they are fixed up. Because there is no increase in revenue. The building is worth no more fixed up than before it was fixed up. Now the market is running scared so the building is worth less fixed up than it was unfixed.

Mr Perruzza: How much did you buy it for?

Mr Manders: I have different buildings. One was at $200,000, another $514,000.

Mr Perruzza: The one that you bought for $200,000—how much is it worth today?

Mr Manders: I put $60,000 into it, but I doubt I could get $200,000 out of it. I have got a lot of my buildings on the market but the offers coming in, they are just low-balling, hoping somebody will be desperate and just simply walk away for the value of the mortgage. That is the only market that is out there.

Mr Perruzza: And the one that you bought for $500,000?

The Vice-Chair: Mr Mahoney.

Mr Mahoney: Thank you for your presentation. I guess the other answer to that question about why you bought it, is you probably would not have anticipated a socialist government—

Mr Manders: Absolutely not.

Mr Mahoney: —in this wonderful province of Ontario. But here we have reality.

Mr Manders: That is right.

Mr Mahoney: Have you sat down and thought about specifically what you can do to survive for four more years, and whether or not you will still be in the business in four more years until this legislation can truly be changed?

Mr Manders: Well, I had to refinance my house—which did not go over well with my wife—to pay the taxes on some of my properties. Others still remain unpaid. I can only carry that on for so long. To borrow the money I am paying premium rates. I was hoping that Bill 4 would not go through and I could get my money back. I am not getting profit out of it—it was just cost pass-through. Everybody talks as though that is making a fat profit. It was not. You pass the cost through—the tenants got the benefit. I got my money back over a period of years. Now the money is not coming back, and I am not too sure how to work it all out. I cannot sell, I cannot borrow.

Mr Mahoney: Were you under the impression, after the Bill 4 fiasco, that there was some commitment on the part of the government to address problems like yours?

Mr Manders: Absolutely.

Mr Mahoney: Do you see any item that you can cling to or look to or have any hope of in this legislation that will address them?

Mr Manders: Three per cent will not even cover my interest charges, let alone the principal, if I even get that. Because my notice of rent increase has to go for January 1, I need it. Then I will have to wait until 1992 before I get that 3%. Meanwhile, interest charges will have more than eaten that up. So basically I will never see the principal again. That is shot.

Mr Mahoney: How much is it?

Mr Manders: A quarter of a million dollars.

The Vice-Chair: Thank you, Mr Manders. We appreciate your coming this afternoon.

ARI WEISBERG

The Vice-Chair: Mr Weisberg. Good afternoon, sir. You have 15 minutes allocated by the committee. You may use all of it for your brief, or you may use some of it and leave some time for questions and answers with the members. Will you introduce yourself for the purposes of our Hansard recording service.

Mr Weisberg: Thank you very much. My name is Ari Weisberg. I have a short statement to make and I will be more than glad to answer any questions. I am a landlord.

Dear panel: Your government proclaims that it listens to the people—landlords, in lack of another word. We do not really like to be called landlords. I am no lord; I am just in the business of renting to people so they can live in places. Landlords are people too, as you can see on my button here. I welcome this opportunity to speak to you today and I hope that you will listen to my submission.

I will give you some background about myself. I am a single parent, deriving about half of my small income from a small rental unit which I bought approximately five years ago. This building is 36 years old and in need of constant repairs. In 1989, with the full knowledge and agreement of all tenants, I embarked on a major renovation project. In order to keep costs down, I did much of the work myself. After the work was finished, I applied to the rent review board for an increase to cover the increase over the guideline, only to be turned down when the rules later changed.

The new proposed legislation is unfair and unworkable. The new rent controls will punish the good landlord and compensate the bad. It does not allow for the recovery of costs beyond the control of the landlord, and it can place us in financial hardship.

1450

In this room today you may hear only the complaints of tenants of the landlords who do not take care of their properties. As far as I know, none of my tenants are here, because my property is well taken care of and is in good repair with money out of my own pocket—funds I could never recover under the new legislation. However, the landlords who spend little or no money will receive the same rent increase as the landlords who have improved their buildings. Needless to say, this discourages landlords from investing money. Why bother? The ones to suffer are, of course, the tenants.

The additional 3% above the guideline allowed under certain conditions is ridiculous. In the city of Kingston, taxes alone jumped by 21% this year. All other expenses went up by at least 7% due to the GST. There is no cap on these expenses. All the people in this province have to pay it, but the tenants do not. I have to pay not only my own share of increased taxes, but the ones of the tenants as well. This is not only unfair, it is a gross injustice.

In the new proposal there is no way to recover past and present capital expenditures due to the fact that this unfair and unrealistic 3% cap is all-inclusive. The increase in operating costs more than used it up. Where am I supposed to get any compensation for the capital costs and expenditure I spent two years ago?

Some tenants claim that we need not have a profit because at the final count, when we sell our property, we will materialize a large capital gain. This is not the truth, because the cost of income property is linked directly to its income. Now that the income is restricted to under the rate of inflation, that is the rate of its capital appreciation. It is a negative one.

If profit has become a bad word, then why should we own a rental property? Is it for the fun of being awakened at odd times to hear that the tap in somebody's bathroom has been leaking for the last two weeks? The government then can manage the rental market, and we will see how much that will cost them.

I did not elaborate here about my own personal situation and I will be glad to answer questions in that regard. That is basically my presentation. There was one more thing that I wanted to add that I remembered on the way down here, but it has escaped my mind.

The Vice-Chair: It will maybe come up during the questioning. Mr Perruzza.

Mr Perruzza: I am just going over some figures. I intended to ask an earlier witness a series of questions on the history of the finances related to his particular units, because it sounded to me that he is one of those who is really caught in the crunch. I think that I and my colleagues on this side of the House are sensitive to those kinds of issues. It is something we definitely have to take back with us when we are considering amendments to our legislation.

It is my hope that we do consider those case-by-case situations of unnecessary hardships, where it is clearly demonstrated that both the retroactive aspects of our legislation and the bill before this committee now does impact severely on some of the unit owners across the province of Ontario. It is something that I wanted to get to with the former witness but I did not get an opportunity to. By looking at a sketchy analysis of this particular witness's situation, it seems to me that there may be some grounds for closer scrutiny as well.

The Vice-Chair: I suspect there is a question there.

Mr Mahoney: There are thousands of them.

Mr Tilson: I hope the minister listens to you, Tony.

The Vice-Chair: Is there a question?

Mr Perruzza: No, Mr Chairman. I just wanted to get that comment out. Obviously, there is not going to be enough time to follow through on the series of questions that I would have for the witness.

The Vice-Chair: Well, we have about a minute.

Mr Perruzza: It is pointless. I did not get a chance to do it with the other one. I will not get a chance to finish it with this one either.

Mr Mammoliti: I would just like to know, sir, you have a six-unit complex?

Mr Weisberg: Yes.

Mr Mammoliti: If you do not mind my asking—you do not have to answer it—do you have a mortgage on the complex, sir?

Mr Weisberg: Two of them.

Mr Mammoliti: How much are they?

Mr Weisberg: One is for $150,000 and the second one is $24,000.

Mr Mammoliti: What are your monthly payments?

Mr Weisberg: About the $2,000 mark; I cannot remember. On top of that I have a loan of $50,000 which I took to finance my renovations in 1989, which got caught between the rules and regulations, and now I am paying that.

Mr Mammoliti: You went for a loan, you got a loan, you applied for rent review. You got caught under Bill 4. After all your expenses were paid, what would have been your profit at the end of the month?

Mr Weisberg: Do you mean before I spent the $50,000?

The Vice-Chair: Sorry. If you can answer quickly, that is fine.

Mr Weisberg: Mr Chairman, one of your commissioners made a statement on my time which had no question in it.

The Vice-Chair: Well, I am the Chairman. I have no control over what the members do with the time that is allocated to them.

Ms Poole: Mr Chair, if the witness would like a minute of our time to answer the question, we would be happy to.

The Vice-Chair: Fine. If you want to answer, that is good.

Mr Weisberg: Well, what was the question? What kind of profit?

Mr Mammoliti: Yes.

Mr Weisberg: Anything, other than a loss. I made $24,000 last year, okay? The $50,000 loan costs me $650 a month, which I take out of my income, bread off the table of my family, of my child, to subsidize those tenants. In my particular case, many of them are Queen's University staffers. They make much more money than I do a month. The bottom line is I do not think it is right that I should subsidize them because I got caught in between them. I support the other answer. The other answer is that you should subsidize the people who need it.

Ms Poole: One of the problems our committee has encountered is—and by the way, we are composed of both government members and opposition members, so hopefully all will listen—we have two opposite viewpoints on capital expenditures.

A number of the tenants and tenant reps have said: "Well, the landlord received enough profit over the years and enough from guideline increases that he should have been putting this into capital. There is enough money there. The landlord gets the capital appreciation and capital gain when he or she sells it. Therefore why should tenants have to subsidize it?" On the other hand, we have landlords who, like yourself, come and paint a very vivid picture of how hard your economic circumstances are and what dilemma you are in.

It is my understanding that when a building is sold, the primary thing that they base the value on is not necessarily

what type of shape the building is in, not what renovations have been put in, but on the rent—what is the income on that building? So the capital gains argument loses a lot of weight when you are in a situation like yours where your building has depreciated by 25%, your rents have been frozen. Where is breaking even, let alone profit? Could you comment on that?

1500

Mr Weisberg: Yes. I mention that in my submission, that the value of my building is only going to go up 6% next year, if there is somebody stupid enough to get into it, because that does not take into consideration that it has to be fixed up every now and then—it is an older building—so you are actually losing money, and that is less the inflation rate.

What I object to is the fact that people see profit as a bad word. Why should we be in this industry if there was not some profit? Anybody who works wants to make something out of it. We do not do it for the good of our heart. Tenants' groups before said: "Why should we guarantee a profit? No other business, when you go into it, is guaranteed profit." There is, and that is not true. In any of the regulated businesses, there is a guaranteed profit. Bell Canada, which is regulated, has a guaranteed profit; so have the cable companies. If we are regulated, we should have some profit guaranteed. If we are not regulated, then open it up. If you open a shoe store tomorrow, nobody tells you how much to sell that pair of shoes for; therefore, there is no guarantee. We are told we can only charge so much, but profit is not guaranteed. If we are regulated, then deal with us like a regulated industry. If we are non-regulated, then let the market take its course.

Mr Tilson: At the risk of affecting the relationship between you and your tenants, you must be able to have some picture as to where your building is going. I am looking at the quality of life of your tenants. Have you had any discussions with your tenants as to things that you perhaps have been able to do now and which you may not be able to do in the future? I am speaking of everything from a new roof to planting flowers.

Mr Weisberg: Yes, I was frank with my tenants. Actually, when the new rules came down—Bill 4, when the talks started—I had one more thing to do to fix the building and that was to get new fridges and stoves. I want to say again, the tenants supported everything. They say they wanted it according to the previous legislation. I went and I told them, "No new fridges and stoves." Yesterday, I had a tenant call me. Even though his apartment was painted in 1989, he said: "Well, it's time. I want it painted again." I said: "No. If you want to do it out of your expense, fine; I think that a paint job every two years is just fine."

Where do I see it? I wish my tenants would buy the building from me. They can run it, they can manage it and they can have the profits. I do not want anything to do with this industry any more. Why should I? It costs me $650 a month.

Mr Tilson: That is my question.

The Vice-Chair: Thank you for coming today.

Mr Weisberg: Thank you for listening.

Mr Mahoney: A point of clarification, or at the risk of calling it a point of order and having that challenged, I would just like some information. I am not sure that it is appropriate, to all members of this committee, that we should be asking personal financial questions of witnesses.

The implication is that if you happen to own the building outright you can afford to subsidize because you make money, you do not have debt service. If you do not own it outright, you know, then they want to sort of get into the personal stuff, and I say this not in a partisan way. I am not sure, recognizing that people come before a legislative committee, that at times it can be somewhat intimidating. They are not totally clear of what the process is. If they volunteer information like that, it is one thing, but I enjoyed the lady's response in Ottawa yesterday when she said it was no one's business.

Mr Chair, I think it is an issue the committee should consider, and it is not necessarily something I am asking you to rule on. I just put it out to caution members that I am not sure it is appropriate for us to be putting people in a position on a public record, in a public forum, where they are divulging personal financial information. Frankly, it is none of our business and it has nothing to do with this bill.

Mr Perruzza: I would like to speak to that. This is something that I guess I have given some—

Interjection: Speak up. We cannot hear you.

Mr Perruzza: I think you got the wrong microphone.

The Vice-Chair: It is okay.

Mr Perruzza: Yesterday I switched the names around and I got the microphone on every time. Today I sit in the proper place and I never get it on.

Mr Mahoney: You're just a mess, Tony.

Mr Grandmaître: What's the difference, Tony?

Mr Perruzza: I have been giving this question some long and hard thought, primarily because of what happened yesterday with one of the witnesses who appeared before the committee. It seems to me that if we do not involve ourselves in these kinds of questions, we will really never get to the crux of the issue. I think we are going to be, at some point, in a position where we are going to have to make some hard and fast decisions about how our legislation is going to impact on people's lives, on people financially and emotionally and on their family life.

I think that if we do not get things like that personal element on the record for us to be able to review in detail, I am afraid we are not going to be able to come to understand some of the complexities that are associated with the legislation, and quite frankly yesterday I sat back and I thought that it was good of us to simply take the no for the answer. But if people are going to come here and tell us that they are going to be faced with hardships and they cannot make do and that our laws are impacting on their economic livelihood negatively, then it is only fair that they are also able to provide those numbers to show us clearly that it is in fact the case and not permit us to simply walk away from this and make all kinds of assumptions about people's state of being without having the actual evidence to be able to support the conclusions one way or another.

Interjection.

Mr Perruzza: Yes, we do, sir. So I disagree with Mr Mahoney's assertion that we should not delve into these kinds of issues, because I think we should. When someone appears before the committee and he talks about a particular aspect of his livelihood, then I think it is only fair that we get all the information out on the table. I do not think it would be fair for us to go into other aspects of their personal lives, that would be totally inappropriate, but as long as it relates to their investment, as long as it relates to our legislation, I think it is quite appropriate. Those are some of the conclusions that I have drawn out of my own mind, and I just toss that out for members opposite and my colleagues to wrestle with.

The Vice-Chair: I have two members on the list whom I will get to in just a second. I would tell members that the Chair certainly has no ability to instruct them about what they may or may not ask, but I would suggest that of course a witness does not have to answer any question that he or she does not wish to answer, and I guess I would suggest we leave it to members' good judgement. That is about all the committee Chairman can do, as far as instructions are concerned.

Mr Mammoliti: I am going to be consistent. Throughout these hearings I have wanted you to rule on a number of things. This morning I wanted you to rule on a point of order, and now I would like you to rule on the point of clarification. Was it a point of clarification or was it not?

Mr Mahoney: He just did.

Mr Mammoliti: I think it was out of order.

Mr Grandmaître: Mr Chair, the point of order is out of order.

Mr Mammoliti: Mr Mahoney's point of clarification was out of order.

Mr Mahoney: What a ridiculous statement. Any member has the right to ask for a point of clarification at any time. You do not know what the hell you are talking about.

Mr Mammoliti: With all due respect, I will dig in Hansard if I have to, but every time I raise a point of clarification or a point of order or a point of information or a point of whatever, I am cut off and I am told that I am out of order. Now, I think you should rule in the same regard to the opposition. Is it out of order or is it not?

The Vice-Chair: Are you suggesting that I rule differently for the opposition than I do for the government? I resent that, Mr Mammoliti, and I do not think I should have to take it.

Mr Mammoliti: I am suggesting that you make a ruling.

Interjection: Children.

The Vice-Chair: Exactly.

Mr Mammoliti: I am suggesting you make a ruling; that is what I am suggesting.

The Vice-Chair: Well, I cannot rule on a point of clarification, because they do not even exist.

Mr Mammoliti: Well, there you go, so it is out of order.

The Vice-Chair: No, it is not out of order. Mr Mahoney asked in between presenters, which is quite different from asking for a point of order when a presenter is sitting in front of us, if something could be clarified. I thought that that was in order. I let Mr Mahoney speak, I let Mr Perruzza speak, I would have been quite prepared to let any other member speak, and I think that is fair.

Ms Poole: Mr Chair, just to give you a vote of confidence, I think you have probably ruled me out of order more than any other member, and I can certainly say that you have been very fair and even-handed. I suggest we get on with the presenters instead of wasting their time hearing this nonsense.

[Interruption]

1510

The Vice-Chair: I remind people this is a proceeding of the Legislative Assembly of Ontario. Participation is only by invitation and otherwise only by members of the committee.

DACON CORP

The Vice-Chair: Our next presenter is Mr Bob Wilson of Dacon Corp. You have 15 minutes to make your presentation to the committee. You may introduce yourself and your position within your corporation and then you have 15 minutes to discuss that with the committee.

Mr B. Wilson: Thank you. I am vice-president of finance for Dacon Corp, which is a locally owned company that for 32 years has been building houses, apartments and commercial properties in the greater Kingston area. I would just like to present some of my own personal experiences and observations here. For some 20 years, Dacon owned and managed apartments in Kingston. By the end of 1989 we sold the majority of our apartments. I would like to give you some of the reasons.

The first one is the increased paper jungle of rent regulations, so complicated that the landlords even have to hire consultants to understand it. It is constantly changing, along with income tax, labour laws, now GST and numerous other government red tape. With these constant changes comes uncertainty. What is going to happen in the future? A decision we made today based on the rules may not be appropriate next year, five years or 10 years from now.

Another one is actually being able to deal on a one-to-one basis with our tenants, who are in fact our customers. The whole process is becoming very adversarial. In one particular experience I had, I went to a rent control hearing and we were accused of falsifying invoices. Our suppliers were accused of falsifying documents, even to the point that we were putting fuel oil in our cars and charging it off to the project. Thankfully, the chairman on that ruled they were out of order. But the ultimate reason why I came away suggesting to our owners of the company that we get out of rent controls was a conference I went to from September 1 to 4, 1987, here in Kingston at Queen's University which was called Rent Control: The International Experience. I would like to read a few excerpts of that. I have left a copy with the committee.

One of the topics of the four days was Description of Different Jurisdictions' Experience—Los Angeles, Ontario, New York City, the United Kingdom, Sweden, Israel and Bangalore, India. "The various jurisdictions' experts were unanimous in their opinion that rent controls have been harmful: In Los Angeles, where they have been mild, they have been an irritant; in Ontario, where they have been in effect for 13 years"—at the time of this writing—"and have been moderate, they have had a significant negative impact on the functioning of the market; in NYC, the United Kingdom, Sweden and Israel, which have had strict controls over a long period, they have severely impeded the functioning of not only the housing market but also the labour market...."

"To offset the problems induced by rent controls, government intervention in the housing market becomes increasingly extensive...until, in some jurisdictions, the rental housing market is essentially replaced by government allocation. A related theme is that the longer controls have been in place, the harder they are to dismantle. Controls confer substantial windfall gains to sitting tenants, which they fight hard to retain.... The message from the review of the different experiences was clarion: In the jurisdictions surveyed, rent controls have been harmful and have seriously impeded the function of the housing economy...."

"While admitting the complexity of the goals of housing policy, participants were also unanimous in the view that almost anything rent control can do, some other policy can do better: If cheaper housing for the poor is deemed desirable, then subsidize their housing; this lowers the consumer price, while allowing the market to determine the producer price, which will provide landlords and builders with the appropriate incentives to construct and maintain housing. If security of tenure is valued, then it should be written into the landlord and tenant legislation."

To continue: "The experience in Britain, Sweden and Israel provide alternative scenarios for long-term controls. Each of these housing economies have adapted controls in a particular way, but in each controls appear to have seriously impeded the functioning of the market, to have generated significant efficiency losses, and to have induced an overbearing government presence in the rental housing sector. It is heartening, however, that the downward spiral caused by controls appears reversible; Coleman outlines the British program for the gradual dismantling of controls, and Turner the current trend in Sweden towards a more market-adapted system." That is my end of my quotes.

The major theme I heard from all participants from Europe, Sweden and North America was that rent controls get votes in the short run but distort the market in the long run. As the representative from Britain, Dr David Coleman from Oxford University and a former special adviser to the Ministry of Housing, said: "Things had gotten so bad from some 73 years of rent controls that they had nowhere to go but up. By 1985, only 9% of the housing market was being supplied by the private sector."

I only hope that we, the people and politicians, can learn from other people's longer experience with rent controls and not believe somehow that things will be radically different in Ontario, because people's basic motives, beliefs and desires are not all that different around the world. I think the recent political upheavals in Europe especially bear me out. As suggested from the conference, give subsidies directly to those who need them. I do not believe there is not still some need for some government housing in the market, but I still believe that private enterprise will supply a better product in the long run.

Especially, I do not believe there is enough money for government in the long run to supply all of the needed housing, health care and other demands that you as politicians must see. I also foresee, as I think you probably heard from the former speaker, that the small-time landlord is going to disappear, that you are probably going to end up with the majority owned by large, absentee landlords. People are just fed up. They want to get out. I believe this will further destroy the social fabric of Ontario's communities.

Something else I hear a lot of, and politicians I have talked to have told me the same thing, is that we outside of Toronto are sick and tired of hearing about Toronto's problems. That is all you read in the papers and that is all everybody seems to be reacting to in some cases. I personally do not believe we have that great an affordability problem in Kingston. The greater Kingston area currently meets the Ontario Ministry of Housing guidelines for a 10-year supply of developable and affordable subdivision land. I think the removal of rent controls in the long run, with some pre-determined phase-out process, will allow Dacon and numerous other builders to return to the market to provide affordable and competitively priced apartment accommodation.

I do not personally read much in the paper about experiences in other countries that have had dealings with it a lot longer than we have. That was my main point I wanted to bring out. I have left a copy with the committee. There were at this conference numerous people from Ontario, Ministry of Housing, various universities and of course consultants from, as I said, around the world.

1520

Ms Poole: Thank you for your presentation. With reference to your comment about reacting to Toronto's problems, I can assure you we have heard that comment before. I specifically remember hearing it in Sudbury, London, Hamilton, Windsor—in fact, virtually every place we have gone.

Mr B. Wilson: I came from Toronto 10 years ago, so I am not a native Kingstonian as such, but just having been here 10 years, I am tired of hearing about Toronto.

Mr Mahoney: It is not the province of Toronto.

Ms Poole: But probably one of the problems of rent regulation under three successive governments is that everybody is lumped in one kettle of fish. I am sure there are many landlords out there who are making a very comfortable profit all the same, thank you very much, because they bought their building many years ago, have paid it off and now are surviving nicely. But there are also landlords in completely opposite situations. Vacancy rates vary across the province. They are quite pronounced in some areas and very tight in others. Would you favour going to some sort of regional look at the legislation so that the needs of various areas are considered in a different light,

taking into account vacancy rates, average rents, all those types of factors that do vary from the Toronto scenario?

Mr B. Wilson: I would certainly like to see that considered. I still think, though, that in the long run rent control should disappear. I think that problem should be looked at, even if it is a 10- to 15-year time frame to get there. In the short term, yes, that is a solution. I have seen that, although even in here there were papers presented about how do you start defining vacancy. There are problems with dealing with that, but I think it can be brought out.

With regard to one of your other points, about wealthy landlords out there, if I can make a comment, there are certainly other ways of taxation then. If that is one of your worries or objectives, there is capital gains taxation. There is the Fair Tax Commission now being set up to establish, perhaps, some successive duties and what not. There are ways of taxing if people are worried about wealth being created out of it.

Ms Poole: We on this side of the table call it a tax commission, not the Fair Tax Commission, because we are not sure that has been established yet, how fair it will be.

Mr B. Wilson: I am not saying I agree with it. I am just saying there are other methods of handling it.

Mr Perruzza: They are cutting into my time with their 40 tax increases in three years.

If I understood the bulk of your presentation, one of the premises you anchored your entire discussion on was that if you remove rent controls, then the marketplace is just going to simply move in and create more rental housing. I think you quoted from a text which suggests that. If you build a new building in this area now, what would you have to charge for a builder to gain some return?

Mr B. Wilson: To gain some return? Again, it depends on what kind of—

Mr Perruzza: A one-bedroom unit.

Mr B. Wilson: In a high-rise? A low-rise? That is all over the map. If I am building a high-rise with pools and everything else, it is a different number than—

Mr Perruzza: Roughly. Take a large shot at it.

Mr B. Wilson: An upset number would be $750. But why is that number that high? What other government regulations are we into to cover that?

Mr Perruzza: So $750 an apartment unit.

Mr B. Wilson: Yes.

Mr Perruzza: What are the average rents now with rent control. Where would you ballpark that?

Mr B. Wilson: I would have to get a survey.

Mr Perruzza: Are you involved in any buildings at all? Do you own any?

Mr B. Wilson: We have two current buildings left.

Mr Perruzza: What is the average rent in your buildings?

Mr B. Wilson: Again, one is brand new, as of 10 years ago, and the other ones are 30 years old, so there is a complete difference.

Mr Perruzza: So what is the average rent in the one 10 years old?

Mr B. Wilson: About $630.

Mr Perruzza: What is the average rent in the other one?

Mr B. Wilson: You would lucky if you are in the $560-$570 range.

Mr Perruzza: So you are close to the average.

Mr B. Wilson: If you want to know, we are losing money. We are close to the average.

Mr Perruzza: You are losing money now and you are saying—

Mr B. Wilson: I am saying we need $750 to make money, even to break even.

Mr Perruzza: To break even, but you are saying that the private sector would, at a $750 benchmark, provide enough housing and make a profit.

Mr B. Wilson: But what is our vacancy rate right now in Kingston?

Mr Perruzza: What would your vacancy rate be if you increased it?

Mr B. Wilson: It is less than 1%. I say there is a need for it.

The Vice-Chair: Thank you, Mr Wilson. We appreciated your presentation today.

HOMESTEAD LAND HOLDINGS LTD

The Vice-Chair: The next presentation will be from Homestead Land Holdings Ltd, Brian Bunting. The committee has allocated 15 minutes. You may introduce yourself and commence the presentation.

Mr Bunting: My name is Brian Bunting, and I am here to make a presentation on behalf of my employer, Homestead Land Holdings Ltd. Mr Chair, may I suggest that rather than go through the full presentation, which has got a lot of repetition in it, if I give you a copy afterwards, can it be included in the record of the proceedings, to try and shorten it up a bit?

I feel a sense of déjà vu, as most of our comments will be similar to those made, with no effect, on September 17, 1986, to another committee, chaired by Mr Floyd Laughren, that was then conducting public hearings into the proposed Residential Rent Regulation Act. Since then, we have had Bill 4, the Residential Rent Regulation Amendment Act, that was effective from October 1, 1990, and now we have yet another proposal hanging over our heads. I also feel a sense of futility in view of the reported comments by Mr Allan Pilkey in respect of Bill 115, the Retail Business Holidays Act, that "the principle of a common pause day is not up for negotiation" regardless of public hearings. If this is the attitude of the government, that a stated principle cannot be reconsidered, then why are any hearings held at all to receive public input?

This proposed act is the latest game in the rent control football series played by Ontario governments from all political parties. The series started in 1975, and represents the last vestige of wage and price controls. No other endeavours in the province of Ontario have been so consistently kicked around in the interests of votes at the polling booth; this must be the reason for this plethora of legislation that

has proved to be of no benefit to the tenants with affordability problems, nor to landlords of all sizes.

Do we see food costs or motor vehicle purchase and operating costs subjected to the same restrictive legislations? What happened to the proposed constraints on prescription drug costs? Yet the residential rental landlords in Ontario are expected to subsidize all their tenants, regardless of their individual needs. Is it politically impossible to enact proper legislation and direct funds to those members of our society who have a true accommodation affordability problem?

I understand that the cost of administering the existing legislation is in excess of $40 million a year. Now this proposed legislation will bring many smaller rental properties under scrutiny through the rent registry system, which itself is far out of date. The increase in operating costs paid by the taxpayers of Ontario will escalate beyond belief. These costs, I believe, do not include the costs of the various federal and provincial schemes, ranging from national housing act loans through various assisted rental programs to the convert-to-rent program. Millions of taxpayers' dollars have been pumped into these, and to what end? There is still an affordability problem. These costs do not include loans for non-profit and co-operative schemes, nor the subsidies being paid through the municipal housing authorities and their attendant administrative costs.

We despair that the true problem of real, and not just perceived, housing affordability will ever be looked at with a new, critical eye to develop an effective economic policy to help those truly in need and that can be administered effectively and inexpensively. Instead, we foresee a continuing mess of legislative patches worsening the basic problem at increased costs, compounding the inward, downward spiral unto the distant future. It is sad that sledgehammer legislation to protect some tenants from a few landlords is detrimental to all tenants and to all landlords in Ontario.

It is easy for Bob Rae to make comments about buying out speculative landlords and creating a pool of non-profit housing, which will be at the expense of the Ontario taxpayers, but I beseech you to consider the true effect of this and all the other legislation on the hundreds of landlords of small rental properties, many of whom do not know about the Landlord and Tenant Act or the various rent control acts.

Would it not be possible to prepare a list of all the relevant legislation affecting property owners and to send it out with the annual assessment notices or the municipal tax bills? These small landlords may then come to realize, too late, that their property will not provide a retirement nest-egg because of the rent control provisions designed to curb speculators. They may well be faced with the total loss of their property, or even bankruptcy, when they are unable to refinance their mortgage or to raise funds for needed major repairs, because there will not be adequate rental income to support the extra payments required by an uneasy lender.

1530

Just because it is the larger landlords and their associations who are, from necessity, heard from most often does not negate the fact that we can speak on behalf of all landlords. It is perhaps ironic that the party now in power in Ontario has claimed that it is representative of ordinary Canadians, yet this proposed legislation can harm such people.

Making constructive comments on this new legislation is difficult because the real nuts and bolts required for day-to-day operations and planning will not be available until the regulations and the attendant paperwork are known. Furthermore, these regulations do not come before the House. They can be changed by the minister at the drop of a hat.

Our experience is that Bill 4, now known as the Residential Rent Regulation Amendment Act, suggests that there will be another long waiting period in suspense until information of importance to landlords and to tenants becomes available. With Bill 4, the effective date was October 1, 1990; first reading, November 28, 1990; second reading, December 18, 1990; third reading and royal assent, April 22, 1991; and the regulations were finally made available in this area by the ministry on June 11, 1991. That is a delay of over eight months.

Our comments on Bill 121: Firstly, we would like to commend the government for telling it like it is and titling this a Rent Control Act and not hiding behind prior euphemisms. Secondly, it is difficult to make specific comments on the precise effects because the practical application will not be known until later, when the Lieutenant Governor in Council has made more prescriptions than your average pharmacist. However:

Section 2 is the five-year exemption. I do not see this encouraging private investment because there is no market guarantee that losses and return on equity recoveries will have been obtained in that time. Furthermore, governments have shown an inclination for changing the rules, for retroactive legislation at any time regardless of prior commitments.

What categories of operating costs will be included when the lawful rent increases are calculated? Unless these include the items presently shown in the BOCI and RCCI formulas, the landlords will be penalized again.

I have never been able to understand the reasoning behind the 50% rule for extraordinary costs. For example, if your calculation shows that your extraordinary cost is $499, you may not get a rent increase, but if it is $501, you can get a rent increase. This differentiation is beyond me.

Another anomaly is the fact that costs are dealt with on an annual basis, but the revenue is annualized. By that, they take the highest month's rent and multiply it by 12. This means that, again, in the calculation of a justified rent increase, that the landlord is being penalized.

There are a lot of phrases and expressions in the draft bill that are going to require some precise definitions. Our concern—and it always has been ever since rent control first came into being—is that there is no control, no follow-up to ensure that the same definitions are being applied from one office to another or even from one application to another. We have seen that happen many, many times.

Section 17 refers to work inside a rental unit and requires the tenant's agreement. However, it is possible to have to do work in a rental unit, such as installing energy-conserving windows or repairing a leaking radiator heating system, that

some of the tenants agree and some of them do not, then what is the landlord to do?

In section 21 is the provision that if an order is not issued in good time, the tenants can spread the extra payment over 12 months. This can be out of the landlord's control, but he is going to be penalized for it. In view of the 3% cap that is going to be on all increases, is that section really necessary?

Section 24, which deals with the tenants' applications, has no time frame at all, as opposed to the rigid time frames that the landlord is faced with.

Section 29, the application for an advance determination on capital expenses. This suggests that if a landlord makes an advance application, he will be obliged to carry out the work. Surely this should be to help the landlord decide whether he can in fact afford to do the work and to assist him to negotiate with the lender.

Section 38, which has been mentioned before, is the question of work orders and rent rollbacks. We have had many work orders to repair damage caused by tenants. Is this going to be the way that tenants can get their rents rolled back or to ensure that landlords do repair damage caused by tenants?

Section 44 mentions equalization of separate charges, but why are rents not going to be equalized? The media have always reported that this is a windfall for the landlords, but if the ministry's own computer system was not working properly as it should have done—the whole theory behind that was that the landlord's total revenue stayed the same. This was an adjustment of rents between different tenants, because over the years the rents for similar apartments have grown hundreds of dollars apart.

We have mentioned section 66, which is the rent officer's powers to go on a fishing expedition, and sections 113 and 114, with the search warrants and the police coming to your door at 7 in the morning.

Section 88 gives a rent officer authority to change an order, but it does not give either of the parties to an application the power to ask a rent officer to reconsider an application. I feel that is a rather important point, because you have taken the whole of the appeal provisions out of there. One would consider that a basic right, to appeal a decision or an order. It is all very well saying, "Let's go to the courts," but the courts have their own problems at the moment.

I think I will leave it at that, but I would like to thank you all for listening to this presentation, and in your own way, for ensuring my continued employment.

Mr Tilson: Under the advance determination section, section 29, you raised the issue of consent. The government members of this committee have continually taken the position that whether landlords can afford it or not, to protect their capital investment in the building, they really have an obligation for their own benefit, let alone the tenants' benefit, to keep the building properly maintained, to make the proper capital expenditures. Yet this section—and I would like your thoughts on this—appears to say that a tenant's consent is mandatory for all repairs. At least, that is an interpretation that I am giving to it. I will be interested in hearing the housing staff's interpretation. Do you have any thoughts on that, that conflict of almost philosophy with respect to capital expenditures?

Mr Bunting: Again, it falls under this question of interpretation, what is an essential repair.

Mr Tilson: As you say, the act could be completely rewritten by regulation.

Mr Bunting: Right.

Ms Harrington: I am glad you like the new rent control. I do too.

Mr Bunting: I do not necessarily like it, I just commend the honesty behind it.

Ms Harrington: Previously, the name "landlord" was mentioned, and I think maybe that should be changed too to something a little more appropriate—"partners in housing," something like that.

Mr Bunting: We have always felt that the word "charity" was more appropriate.

Ms Harrington: I would like to briefly comment on some of the questions that you raised, the concerns that you raised. Our job as a ministry is to look at the whole picture of housing in Ontario, not the piecemeal picture that has developed during the past. Also, it is not a political advantage for the short run. That has been tried before. There is no sense in that at all. What we have to look at is the whole big picture, the land prices in Ontario for home owners and for apartment units, of course. The Ontario Housing Corp has to control spending and make it a decent place to live; non-profit and co-ops as well. The reality is that we cannot endlessly extend these programs. We have to be a partnership with the private rental market.

1540

Ms Poole: Thank you for your presentation. We always particularly appreciate it when presenters give us specific sections they have concern with so we can take a look at them.

Looking at sections 38 and 39 concerning the work orders that you made comment on, I applaud the intent of the government, because quite frankly, there have been problems with work orders. There have been problems with certain landlords—not all landlords, and in fact I would say not even most landlords, but there have been concerns that some of them have abused the system and have a history of outstanding work orders.

Would you like to see some safeguards built into this section, for instance, the same ones that are in Bill 51, where the director would have to look at extenuating circumstances, look at whether they are making reasonable attempts to comply, look at the history of the building and whether the landlord has constantly been in trouble in this regard, whether there are financial implications? Do you think that would help this section, or how do you see it being changed to make it more effective?

Mr Bunting: I would say in general, if we are talking rent control, that rent control has to be here to stay, and that basic argument we do not agree with, obviously.

I agree that there are bad landlords. There are bad tenants as well. It is bound to happen and it is part of the human condition.

But I think the point you are leading to, that there should be a sort of graduation, more room to consider the exact circumstances leading to the issuing of a work order or of the follow-up of it—because once something is written down in black and white, you are going to have to interpret it this way or that way. If it gets interpreted the wrong way, then you are going to penalize a person who might basically be a good landlord but who has got this work order, which could be a major one. We have heard about the older buildings here in Kingston. We have 100- and 200-year-old buildings. A work order for a small landlord in that situation could be a major problem. He is faced with a financing problem, and it might take months to go through, as I have seen going through lenders now. They are getting so cautious it is unbelievable.

Ms Poole: It becomes a catch-22 situation.

Mr Bunting: Very much so.

The Vice-Chair: Thank you, Mr Bunting. We have appreciated your coming here today.

KINGSTON FRONTENAC HOME BUILDERS ASSOCIATION

The Vice-Chair: The next presentation is John Armitage of the Kingston Frontenac Home Builders Association. You have been allocated by the committee 15 minutes for your presentation. If you wish to reserve some of that for conversation with the committee, we always appreciate that. If you would begin by introducing yourself, your organization and your position within the organization, it would be appreciated.

Mr Armitage: My name is John Armitage. I am the president of the Kingston Frontenac Home Builders Association. We have 170 member firms in Kingston, representing in a typical year about four million person-hours of employment; 90% of the rental housing built in the greater Kingston area is built by members of our association.

I would like to thank you for taking the time to listen to those of us in the industry regarding this legislation. When I look out the window, I think we are inflicting some cruel and unusual punishment on you, making you stay in here when it looks so nice outside.

When I was working on my remarks—normally when I do this kind of thing, I have prepared written remarks that I leave with you—it occurred to me that there is really nothing I can say to you that you have not heard before. You have probably heard from overzealous landlords who are ranting and raving about the intrusion in the free-enterprise system. You have probably heard from overzealous tenants on the other end who are probably telling you that every landlord is some mean person with a Rolex watch who drives a Cadillac and wants to take their money. I think really what we have to do in our society is try to seek out some more meaningful consensus.

Let's talk about Kingston for a minute. In the last 24 months, we have had landlords who have built new buildings who have offered one month's free rent. In one case we had a fridge and stove being offered for people who would rent from this landlord. That tells you this is one of those unique market situations where there is an oversupply. You have heard it before, but the most effective rent control system, the most effective price control system in our society for any commodity, is when there is an adequate or even an oversupply.

There is a 120-unit building in our community that has a maximum legal rent that is $100 per month more than the landlord is charging for that building. Why is very simple. If the landlord charged the maximum legal rent, the building would probably have a large vacancy rate.

Simple economics work. We are a market that does not need rent controls to the degree that perhaps some of the larger markets do.

I am concerned that this piece of legislation is sending a message to the investment community that transcends just the rental market situation. We need money from outside Ontario for our province to flourish. We all know that there is a serious concern about the deindustrialization of Ontario right now. The only way we are going to maintain the investments here and indeed attract any further investment to Ontario from outside our borders is to get the message out that it is not a bad thing to make a profit.

Unfortunately, Bill 121 as it is currently written has an implied message that a fair profit is something a landlord should not be entitled to. I do not think there is a thinking tenant, a thinking member of any of your parties, who would disagree that a landlord should not be denied the opportunity to make a fair profit. The message we are giving in Ontario right now is one that is scaring investors away, and this rent control situation is just a microcosm of a larger problem that we have to deal with.

This proposed legislation has injected a high degree of uncertainty into the rental investment market. Lenders are nervous, landlords are nervous, and I think tenants should be nervous, because there is the potential for the drying up of private-sector-initiated construction.

I think there is a unique opportunity here, just through this one piece of legislation, to simply write into the legislation the fact that a landlord is entitled to a fair profit. I cannot imagine anybody opposing that concept.

Maybe I am oversimplifying, and perhaps you will correct me when I am done with my remarks if I am oversimplifying, but it seems to me that if any company or any investor in any market in Ontario is making a profit, they are going to pay taxes, they are going to employ people who pay taxes, and the government of the day, indeed, the three levels of government of the day—four in some jurisdictions—will use these taxes to deliver the programs that they think are in the best interests of the greater public and serve the greater public good. Profit is important for us to be able to serve those in our society who are in need.

This recession has been hard on us in Kingston. Our unemployment in the construction sector has peaked out at 50%-odd, and right now a recent statistic tells us that our unemployment rate is in the 40% range. I keep reading that the recession is over. I can tell you that in the housing sector in Kingston, and I am including the rental housing sector, obviously, it is not over. It started in April of last year, and 16 months later, it just has not abated. We are told that our sector is going to pull the province out of a recession. Once again, we have an opportunity with a piece

of legislation to either encourage recovery from the recession or perhaps to hold us in.

The previous legislation had many flaws. It was not a perfect piece of legislation. I think everybody would recognize that. But I am told that there were something like 50,000 private-sector-initiated housing starts in Ontario since 1985. That is not bad. That tells you that at least on the supply side of the equation there was some degree of confidence perhaps coming back into the market. This new legislation, unfortunately, undoes this confidence that has been emerging in the rental supply market.

1550

I have five specific recommendations. I have to be honest with you that, when I was coming here, I said to myself, "What's the use?" There is a high degree of frustration in the business sector that governments do not listen—not just the government of the day in Ontario, but all governments. The small businessman's degree of frustration is so high it is going to explode somehow, somewhere. Part of that frustration is an honest, sincere feeling that governments do not listen. I will not accuse you of that, because you people would not be sitting here on such a beautiful day if you did not care a little bit about the job at hand.

I am convinced you are going to move ahead with this legislation, so I am going to ask that you give consideration to five specific recommendations. I am not an expert in the clause-by-clause analysis of this piece of legislation, I am more of a generalist, as a builder and as a representative of our association.

The first recommendation: When you deal with the rent control index, I think you should talk about old versus new buildings, not small versus large. You have heard it before, I am sure, but an old building has a higher operating cost as a per cent of income than a new building, and I think it is easy to see. Newer buildings just simply have not had the time to weather, to deteriorate, and they have a higher income base as a per cent for their maintenance fees, for their fixed fees.

For example, in our market, old buildings typically would have a rent in the $400 to $500 range for two-bedrooms and new buildings would be in the $600 to $700 range. So for the higher rent for the same costs, obviously, as a per cent, it is less for a new building than an old building.

The second recommendation: Inflation should be allowed for when you are calculating the formula. It is a very simple concept. If the rate of inflation is 5%, what is worth a dollar today is 95 cents tomorrow. So for my dollar to be worth a dollar tomorrow, then I should be allowed equal to the rate of inflation. If the rate of inflation is 5%, a dollar today should be calculated as $1.05 tomorrow.

The third recommendation: I do see a good aspect to this legislation. It is the recognition that a new building needs time to settle into the market. A period of five years has been recommended.

I can tell you that one of our member firms has just finished a pro forma on a 180-building project, and the time to break even on that project is closer to seven years. What we have got to recognize is that, yes, that landlord should be given the opportunity to reach the break-even point, but once the landlord reaches the break-even point, to be encouraged to go ahead with the project and for the lenders to have the faith to lend on the project, they then should allow for a fair rate of return on the investment within the formulas, a fair profit; 10 years would be a more acceptable term than five.

My fourth recommendation: I am concerned about the discretionary powers that are written into this legislation for what has been called the rent police. I see that they have the right to determine maintenance standards with no right of appeal. Surely fairness in our society tells you that any of us should have a right of appeal. If an honest mistake is made or if somebody is being unfairly arbitrary, I think we would all want to see the individual have the right of appeal. It is only fair in our society.

My last recommendation is that the maximum legal rent for a building should be the economic rent. I do not think I need to explain economic rent to you. An impartial accounting firm could look at the costs involved in putting a new project together. We could, I am sure, agree on a fair rate of return on the investment for whoever the investor may be, large or small, local or foreign, and then we should be able to determine what that economic rent is. That economic rent should be the maximum legal rent.

I think it is important that we encourage supply. I think it is important that we encourage private-sector-initiated supply. We will always have the public sector. It is necessary to help those at the bottom end of the economic ladder and we have an obligation as a society to help those who are disadvantaged. I do not think anybody argues with that, but fundamentally, I do not think anybody, the mainstream taxpayer, wants to see his tax dollars going to provide a subsidy, whether it is direct or indirect, to those who are not in need.

That concludes my recommendations. Just a final appeal: I think it is time that we take the three parties involved—governments, and I say governments in plural because we are dealing with more than just the provincial government; landlords and tenants—and I think we have got to sit down and try again at a meaningful dialogue to resolve this issue. It is more than whether or not you can win a certain riding; our future is at stake here. I am concerned about my children, and my children's children and the legacy that we—and I say "we" because we are all in this together—are going to leave our next generation and the generation that follows if we do not find a rational, middle-of-the-road solution to the situation.

Let's come clean on the political realities, and let's come clean to the voters of the province and say, "We, politically, have a problem here; all three parties have a problem." We have a million votes that we are dealing with, but somehow our legacy has to be that we have a system that works, so that those who come behind us are not going to be facing the blight that we see, and you have heard all about the horror stories all over the world. Somehow we have to find a made-in-Ontario solution. I do not know what it is, but I just appeal to you to—let's put Bill 121 on hold until we can have a meaningful dialogue with the parties. Thank you for your time.

The Vice-Chair: Thank you. Mr Perruzza, Mrs Harrington and Mr Wilson have expressed an interest to spend your 40 seconds. Mr Perruzza?

Mr Perruzza: Mr Chair, I am going to pass over to Mr Wilson, since he is the member for this area, and it is good of him to come out and sit in on this committee.

The Vice-Chair: Now he has got 10.

Mr G. Wilson: Thanks John, for an unusually sincere and straightforward account of where your position is. This question has come up before and I have put it to tenants about how they speak to landlords, and I just wondered, from your point of view, who speaks for the tenants, and how do you meet with tenants to find out what their views on this are, or should we be encouraging organizations of tenants so that they will be able to articulate their position in a way that they would, then, have a position at the table?

Mr Armitage: Well, I think you know my answer fundamentally will be as an employer opposed to formal organizations of any type; but yes, we need to somehow have a meaningful dialogue with tenants. The problem we have to watch out for, and you have to be vigilant for it, is those who aggressively seek to speak for any group. I would be suspicious of their motives, if they have a hidden agenda. We are seeing people in our society now adopting causes, not so much because they believe in the cause, but because that is going to help them get to whatever their personal agenda is.

I think you have to use focus groups rather than people who claim to represent tenants, and use the focus groups that are scientifically selected from landlords and tenants. Sit down and talk to them so that you are talking to the average landlord—not the overzealous type like myself who will come and talk to you, but the average guy out there—and start talking to the average tenant, not the people who seek to represent tenants. I think focus groups are the answer.

Ms Poole: Thank you for a very thoughtful presentation, and particularly your middle-of-the-road stance. I can tell you, as being a party very much in the middle, it is sometimes uncomfortable, and other times dangerous, but there is some hope for some of your recommendations.

I do not think there is anybody who has come before our committee who has not come of the viewpoint that the double guideline is confusing and unnecessary, particularly the way they have done it with small and large buildings, so I am quite optimistic that the government may reconsider that and have one guideline, or, as you suggest, old versus new buildings.

The second one, the right of appeal: Again, tenants and landlords have been very much of the viewpoint that is something that cannot be denied in a democratic society. We find your—

The Vice-Chair: The question is?

Ms Poole: The question is, I really appreciate your comments and I think they will be very helpful to our caucus, and hopefully other caucuses, in formulating our amendments.

Mr Perruzza: Good question.

Ms Poole: Do you agree?

Mr Armitage: Yes.

Mr Tilson: There is obviously a group of tenants—wealthy tenants or middle-class tenants, however you want to refer to them—who perhaps may or may not have an interest in getting into other things, such as the purchasing of homes, which is your line of work. Are you able to determine through facts or otherwise whether this type of legislation will have an effect on those types of individuals purchasing new homes? In other words, would it pay them to stay in their buildings, obviously?

1600

Mr Armitage: Our business is building rental as well as new homes. Our members are in both businesses and we represent that equally in our area.

Anything that says to anybody in our society, "I've got a good deal," is going to mean that they are going to hang on to what they have. Whether it is a car or a boat or a bicycle, if it is a good deal, they are not going to trade it in. If I can afford a modest starter home or a new home, but I am in a unit in the Kingston market that is two bedrooms, that is under rent controls, that is $385 a month, why would I if I can afford that?

I think that is the point. Artificially, we have created a good deal for people. Having said that, philosophically, we are not going to argue with the fact that we have to help those out who cannot help themselves. Our philosophical position is that we are opposed to helping those who can help themselves.

In answer to your question, yes, this legislation will hinder the upward movement of tenants into the housing market, which will have a ripple effect of decreasing the availability of rental housing for those who really need it, particularly the lower-level rent-controlled units.

We have affordable housing in Ontario. The problem is it is occupied by all the wrong people, who do not need it.

The Vice-Chair: We very much appreciated your appearance before us today.

KINGSTON AND AREA REAL ESTATE ASSOCIATION

The Vice-Chair: Mr Neil Hubbard of the Kingston and Area Real Estate Association is the next presenter. You, like the other presenters, have 15 minutes to state your case to the committee. We would appreciate a few minutes to have questions and answers. Just introduce yourself.

Mr Hubbard: My name is Neil Hubbard. I am the president of the Kingston and Area Real Estate Association. I would like to read a short introduction to the Kingston and Area Real Estate Association first.

The Kingston and Area Real Estate Association is a non-profit organization which represents the interests of real estate and realtors in Kingston, Napanee, Gananoque and the surrounding areas of our trading boundaries. Our association is composed of approximately 540 members who are active in all phases of real estate, including residential, investment, commercial, industrial, rural and recreation.

As realtors, we have firsthand knowledge of our community, as we deal with the public on a daily basis and we are able to gauge the effects of government policies on the real estate market.

The association's mandate is to assist members in operating their businesses in a successful and ethical manner, to increase consumer protection through improved standards of business practice, to enhance the opportunity for all area residents to own and enjoy real estate, and last, to preserve and protect private property rights for all our citizens.

We in our provincial governing body, the Ontario Real Estate Association, comprising over 45,000 realtors in 48 local boards, have worked closely in the past with all branches of government to develop, review and to comment on government policies affecting realtors, real estate and Ontarians.

The new government policy respecting rent controls affects realtors, real estate and Ontarians.

That is my introduction. It is the position of the Kingston Area Real Estate Association that the new rent control legislation is not acceptable. It is not acceptable to the tenant whom it is meant to protect, and it is not acceptable to the landlord who has traditionally provided the type of housing the act is supposed to control.

We do not wish to see a return to the situation of the past. The history of excesses by landlord and tenant alike is best forgotten. The tenant needs some form of protection from these excesses. However, if the protection is to be provided, it should not be at the total expense of the landlord. If short-term protection is given to tenants, the government must beware it may lead to long-term disaster in the rental housing field.

Each day, we as realtors are seeing more and more potential investors who are avoiding the Ontario rental housing market completely and, in many instances, are investing out of province and even out of country.

Potential investors are now of the opinion that government policies make it a waste of their time and money to become involved in the rental housing market. They are more concerned with investing in areas where a profit is a possibility rather than investing in the rental market where a profit appears to be an impossible dream.

The new legislation is one more obstacle in the path of even a reasonable profit. By giving short-term protection, the rent control may result in a shortfall of new rental stock and a deterioration of the existing stock as landlords simply walk away from their properties in total frustration.

Where rent control is supposed to assist the poor, it is often the middle class who reap the benefits of the system by utilizing rent control units, banking their savings and using these savings to make a down payment on their own residence. At the same time, the poor are locked into substandard accommodation but are reluctant to move as they are reaping the benefit of controlled rent and do not wish to lose this so-called benefit.

This new submission is not a timely warning in light of the uncertainty and concern being felt by many people in Ontario. Ontarians are fearful of their jobs, of rising provincial and federal taxes, of lot levies, and perhaps the most major concern of all, whether the country of Canada will stay together as a nation.

The path taken by the new rent control act is one which, in our opinion, may eventually require the provincial government to take full control of all rental housing units in the province. We feel this would be a drastic mistake and urge the government to let the market dictate fair rent.

If, as provincial statistics point out, a third of all Ontarians cannot afford their present rent, it seems only logical that the government should take the estimated $40 million it now spends on administrating rent control and perhaps put this money towards rent subsidies for those who truly need this type of assistance.

Tenants would find it more acceptable and landlords would continue to invest in the market, leading to at least some return on their investment.

Ms Poole: I do not know what it is about the Kingston area that is bringing these moderates out who agree that our goal is to protect tenants and also stimulate the industry, but it is good to hear that kind of talk.

What I would like to explore with you is how we do manage to stimulate investment, confidence and trust in the housing market. Quite frankly, I think after Bill 4 that is going to be a tough call. Certainly the landlords who have come before our committee are extremely angry. They feel threatened and therefore they are threatening, themselves, to get out of the market.

What do you see as the solution? Do you think Bill 121 can be amended to provide that middle ground where we can have tenant protection and, at the same time, provide that stimulation and boost to our economy?

Mr Hubbard: I would certainly hope so, because from my own experience, week by week I talk to people who are investing in the Alberta market, who are investing in the British Columbia market, and when you say to them, "How about the loyalty of staying with the Ontario market?" they say: "It's not worth our money. Why should we waste money on this market when we can do much better in the other markets?"

I certainly hope there is going to be a change in the bill to provide both protection and also protection of the word "profit." The word "profit" is not a dirty word. I think more and more the investment community is becoming a bit leery of investing in our own province, which is a terrible travesty as far as I am concerned.

Ms Poole: Are you suggesting that perhaps one way we might accommodate this is to take a look at the guideline again and maybe reinstate a 1% profit? Is that what you are leading to?

Mr Hubbard: Anything that will give some indication that profit is possible. That is the thing that most people are very afraid of. They are seeing zero profit and perhaps financial hardship, bankruptcies and the whole thing, and I do not think that is fostering any sound investment policies in Ontario. We are finding it day by day.

Mr Tilson: Continuing on with that line of questioning, you are not obviously the first, as I am sure you are aware, to come forward with that type of statement, that investors have lost confidence in this province. Businesses are becoming more wary of this government with not only its rent control policies but other policies. As you have stated, they are moving to other provinces and out of the country in fact. Do you have any thoughts, in speaking with these individuals, as to the long-term effects? We know what the short-

term effects can be. Have you had any discussions with any of the people you deal with on this?

1610

Mr Hubbard: I think the one issue that continues to come up is that these people who are in this market certainly want a profit. The average person who cannot afford some sort of housing also wants housing to be provided. Long-range they are just saying: "We have the money to invest, why are we being forced not to invest in our own country or in our own province, in our own area? Why are we having to go out of province, out of country even, to let some other country enjoy the investment we are willing to put forth? We are being discouraged by this." That is the general trend of what I get from people talking on a day-to-day basis.

Mr Tilson: The reverse of that, of course, is new industry coming from outside the country into the country or the province, or outside the province coming into the province. As I am sure you are aware, many of them send out individuals to determine what the schools, housing and everything else is like. Have you had any thoughts or any discussions with out-of-province industry or businesses as to our housing industry or our pending housing industry?

Mr Hubbard: Up until this year they have been very pleased with the housing industry. The cost of housing and so on in this area is still reasonable when compared to other major centres like Toronto or Ottawa, so I have no problem with that whatsoever. They are still considering Kingston an area they would like to come to.

Mr Tilson: But that is mainly the purchasing of business as opposed to the rental of business.

Mr Hubbard: Yes, but investors from outside—I find it is slowing down. It is definitely slowing down.

Mr Perruzza: You talk a lot about investment and confidence. Are you familiar at all with the land use planning processes of countries other than Canada?

Mr Hubbard: Honestly, sir, not to the point I could answer a certain type of question on it, no.

Mr Perruzza: You would not know how long it would take to get a rezoning application through in France, for example.

Mr Hubbard: No, I do not.

Mr Perruzza: Okay. You are not familiar at all with Japanese land use planning principles.

Mr Hubbard: No, I must admit I am a Canadian and I can tell you about Ontario but I cannot tell you about outside.

Mr Perruzza: So I think it would make for interesting reading if you picked up on some of that information and find their land use planning is substantially different from ours, and then you could come back here and make a presentation on investment and confidence in investment in those kinds of economies and in real estate particularly, because you would find it is quite different. It is just something I throw out to you.

Would you support our changing land use guidelines to allow the rental market or the private sector to be able to make profits and provide rental housing at a reasonable market rate?

Mr Hubbard: To allow the private sector to do this?

Mr Perruzza: Yes.

Mr Hubbard: I would have to look at it in the long-range plan. I would think the private sector right now is providing a lot of the housing we are requiring in the first place.

Mr Perruzza: Okay. Maybe I am not making my questions clear—just to clear it up a little bit, okay? The other gentleman said earlier it would require about $750 in market rent, I guess, for a unit that is about 700 square feet, a one-bedroom unit, at market value, to be able to permit builders in this part of the province to make a profit and provide market value housing units. The average in this area seems to be in the $400 range. That is what people can afford. Would you support the density increases that it would require on a site-by-site basis that would enable builders to provide rental housing at $500 a square foot and would you have any idea on the kinds of density increases you would be looking at and how it would change the landscape in this part of the province by doing that?

Mr Hubbard: Your question is kind of a long one, but I would support anything that—are you suggesting now that by doing this the Ontario government is going to become involved in it and so without control or—

Mr Perruzza: I guess my question is—

The Vice-Chair: I think your time for questioning has expired. Thank you very much, Mr Hubbard, for appearing before the committee today.

Mr Hubbard: Thank you very much for your time.

ANNA IRCHA

The Vice-Chair: The next presentation is from Anna Ircha. Good afternoon, I see you have been here for a while so you have seen the procedures. You have 15 minutes to make your presentation to the committee. We certainly appreciate some time for questions and answers. Introduce yourself and you may begin.

Ms Ircha: My name is Anna Ircha and I thank the committee for allowing me to speak. I too have never done this before. I am a single mom and I work full-time.

I am a tenant and I will always be one unless I win a lottery or receive an inheritance. I feel tenants are punished for not being able to own their own homes. Anything we ask, we get, "If you don't like it, you can move." Buildings are seen only as an investment, not as places where human beings make their homes. I have a series of rents from a unit I wanted to live in, but it was filled at the time of my move. As of September 1, 1985, it was $555 and as of September 1, 1992, it will be $777. The rent asked for by the company at that time in 1992 would be $789. They are putting rent control on to what they would like rather than what they are paid and allowed. This is a $222 increase and I am glad I did not move into that building. This is a new building and it does not really have any major repairs.

I have a letter from someone who lives on Ontario Street. She says: "This is an example of a tactic which is perfectly legal but not, in all fairness, moral. Rent notices show two figures, actual assessment and allowable assessment. This year, with absolutely no improvements in the

building, the landlord went to the higher figure and then put the increase on top of that, making a nearly 9% increase. On top of that, due to the increase in tipping fees, garbage chutes were locked and we had to put out our own garbage at considerable saving for the landlord and a benefit for which the tenant pays has been withdrawn."

I live in a 35-unit building which opened in May 1985 and I am the only original tenant left. I pay approximately $575, plus electric heat, for a two-bedroom apartment in the north end of the city. The hot-water tank is within my apartment unit so the landlord pays to heat and light the halls, basically.

This building is an eyesore in a meticulous community. A hayfield is growing out front and back, even though the owner owns a rider mower. Snow removal is treated the same as the hay. A few tenant complaints put under my door: The laundry provides three washers and dryers for 35 units. For years, the laundry room was open until 11 pm and without notice management changed this to 9 pm, with the exception of Wednesday evening. Dryers need to be used two or three times, taking time and money to get your clothes dry. Closure at 9 instead of 11 is an added stress on the tenant. If you work and come home and make supper and try to fight for the laundry room, it is hopeless.

A tenant has waited 13 months to get a lock fixed on a door; another waited six months to get a toilet repaired. Management will not paint or fix any problems re humidity from a nearly airtight building. We are allowed to paint or paper if we pay for the products, plus labour. I was shocked to hear someone would be willing to paint an apartment every two years because I have been there since 1985 and there is no way they would paint.

Management also wants tenants to pay to have their rugs cleaned on leaving. I have never heard of this. I have not left yet, but this is what I have heard. If any repairs are attempted, they are done as a Band-Aid solution, with poor-quality materials and non-professional workmen. They do not care. Absentee landlordism and property management make it difficult to get anything done. Landlords take little notice of law and can tie up things in courts in legal shenanigans for ever until the tenant gives up or moves, as they said they would do in the first place.

I pay for a parking space although I do not own a car and probably never will. We are not allowed to put bicycles on our balconies because of the fire marshal's regulation. Why do apartment buildings with balconies not have bicycle racks? I guess that is about it. Thank God for rent control.

1620

Mr Tilson: We have received testimony from landlords obviously opposing rent control that, because of the financially restrictive nature, they will not be able to make the type of capital expenditures they made in the past, whether to roofs, plumbing or all sorts of things. Nor will they be able to, perhaps, make sufficient maintenance improvements as they have in the past. The fear of not just a few—it has been most of them—is that the quality of life of the tenant will deteriorate even further, because you are not the only tenant who has come and told us very unfortunate stories of how you are being treated by certain landlords.

Having heard that and having listened to summaries of the rent control legislation and what it is doing financially—and it is very difficult to understand it; most people do not understand it, including a lot of people on this committee—do you feel, having heard that, that the quality of your living in whatever apartment building you are going to will deteriorate?

Ms Ircha: I like the punishment for the work order, I think that is the only hope I have.

Mr Tilson: The reduction of the rent?

Ms Ircha: Yes, because they do nothing. But at least if we have some law that says if I ask you— I have water leaks on my ceiling, but they do not care, yet they expect the tenants to clean the rugs when they leave. An old tenant left and they made him pay to have someone wash the walls and clean the rugs. Is that not the landlord's job? These people paid the money. I thought morally the landlord should do it.

Mr Tilson: I understand that, but we have also had landlords, even earlier today, who simply say—I think one is still in the audience—they have not got the money.

Ms Ircha: These guys have never done anything, so where—

Mr Tilson: I appreciate that. We are talking about two different types of people. But he said even the ones who care are saying that because of the restrictive nature of this legislation they will not be able to do even minimal things that perhaps they have done in the past and that is the fear they are putting forward to this committee.

Ms Ircha: They should have built in electric heat and had the water tanks in the apartment. This is a very smart landlord. He pays for just about nothing and does nothing. It is a travesty on the community. Everybody has immaculate lawns all around us and we live in a slum. The building is lovely because it is still fairly new, but beyond that, I am ashamed to live there.

Mr Tilson: Thank you for coming and telling us your story.

Ms Harrington: Thank you, Ms Ircha, for coming here and for your comments. I just wanted to let you know that your first sentence about how you feel as a tenant, not being in control of your future and your stability in your life, is something this government believes we must change, and that is to enable our citizens to feel some equality. That is not to degrade other people's rights, but to bring equality. So, thank you for coming.

Mr Mammoliti: I cannot believe the landlord has not done anything.

Ms Ircha: That is why I am the only original tenant.

Mr Mammoliti: How long have you been there?

Ms Ircha: June 1985. It opened in May 1985. There is not one person—they love you to move; they would love me to move.

Mr Mammoliti: What is ironic is that landlords are coming in front of us and saying it is because of our bill, this bill—we have only been the government for 11

months, almost a year—that this is going on in buildings. Is this the case or has this been happening from day one?

Ms Ircha: I can only give you this story. I moved into a brand-new building thinking, "Well, I have to pay my own heat, but it is a new building."

Mr Mammoliti: So it has been happening for a long time.

Ms Ircha: Yes.

Mr Mammoliti: What about their argument that they do not have any rights, that we are trying to take rights away from them? What about the rights of the tenants. What about your rights?

Ms Ircha: I do not feel I have any. They found out that I was speaking here. They phoned me at 8 in the morning to know why and what complaints do I have and I really said it is none of their business, but I am either going to get very good treatment or I am going to be harassed.

Mr Mammoliti: Thank you very much for coming. Keep it up and good luck. I am going to pass over, if you do not mind, Mr Chairman.

Mr G. Wilson: Thanks a lot for coming in. I think you gave a moving and concrete view of what the tenant has to go through, and highlighted the issue of "It's your home versus somebody else's way of making money." I think this is the thing that has to change. Again we come back to just what kind of voice the tenant does have. In your building it appears the only voice your former co-tenants felt they had was to leave and no chance of improving conditions, which I think are not out of reason.

As my colleagues mentioned, we have been in government only a year. We cannot be responsible for the first years of your tenancy, but the view of some people would suggest that landlords are doing even less than nothing under our legislation, so keep up the fight.

Ms Poole: Thank you for coming today. I know it is very intimidating to come before this committee. If you had been here at lunch-hour you would not have been too intimidated. You would have thought we were all acting like children and it probably would have relaxed you somewhat. At least certain members were; sorry, I had to get that in.

I thank you for relaying your experience. I think it shows why certain provisions are in this act, particularly the ones about maintenance and rent penalties. I guess our job, though, is not to question whether they should be in there, which your story certainly says they should, but to make sure they are really going to do the trick.

I just wondered, had you any experience in your building where the city has come in and put a work order on it?

Ms Ircha: I put a notice under everybody's door asking if they wanted to say anything. I know there is one apartment that is under legal aid or something; they have not paid their rent in six months and the owner will not accept any registered mail, so there is obviously a court case pending.

I phoned rent control about them and they knew the building immediately and said the name and that they have tons of problems with that building. There are an awful lot of problems. I just stay in my little unit and I have it wallpapered. I do one room a year and I keep all the bills, but it is my choice to do that.

Ms Poole: Just to wind up, the job of our committee is making sure that the landlords who—I should not use the word "abuse"—take excessive advantage of the system, who abuse the system and their tenants, we want to make sure this legislation is going to solve that problem without making it difficult for other landlords who really have sincere problems and have actually kept up their maintenance. I personally know of specific examples where this has happened, and now they are saying they are just fed up and they are not going to do anything. I appreciate your coming to tell your story so that it can reinforce in our minds why we have to make sure this legislation works.

The Vice-Chair: Thank you very much for coming. I trust it was not too painful.

Ms Ircha: No.

1630

KINGSTON EMPLOYMENT AND YOUTH SERVICES INC

The Vice-Chair: The next presentation comes from Kingston Employment and Youth Services, Susan Harrison. Good afternoon.

Ms Somerville: Good afternoon. Sorry for our lateness.

The Vice-Chair: The only thing is that it gave the committee a minute to kibitz and that is always a problem. You are ready to proceed then?

Ms Somerville: Yes. I believe a handout is being passed around.

The Vice-Chair: Ms Deller will look after that for you. You have 15 minutes allocated by the committee. If you will introduce yourself and your colleague and the group you represent for the purposes of our Hansard, then you may begin.

Ms Somerville: My name is Jane Somerville and my colleague is Susan Harrison. We are two staff at the Kingston Employment and Youth Services. The report that is being passed around is representative of 15 young people who use our service who were involved in a discussion and handed in comments, as well as myself and two other staff who put together some impressions. It is not representative of the whole agency, but that is the input.

Kingston Employment and Youth Services works with people between the ages of 15 and 24. We have been in existence for the last eight years and over those eight years housing has been an issue that has been very important to the people we serve. Traditionally, the people who use our service are from disadvantaged backgrounds or marginalized youth; 82% have not completed their grade 12 and are looking for employment or training programs. Over half are living on their own and also about 40% are recipients of social assistance. You can imagine that they are on a fixed limited income and when they are employed it is usually starting at minimum wage.

I will just tell you how they shared their comments. There was a workshop that was facilitated to explore housing issues. Many of the comments probably did not relate directly to your mandate in terms of the new proposed legislation, but

we felt it was important to include the spirit of the comments in the document you have received because it is not often an issue that can be separated into little components.

After the comments were made, just general comments, they then wanted to respond directly to the proposed legislation and so we tried to make comments in that area as well. Generally what you will find is that anything that can make housing more accessible and more financially possible for these young people the better. This is what they are looking at:

1. Keeping a cap on the increases that are allowed per year;

2. That the houses or the accommodation they are living in is kept to a legislated standard and there is some sort of check on landlords, because the people who are living in this accommodation do not often know their rights. They do not know that landlords have to keep the homes up to a particular standard and so they are often victims of that not-knowing and abuse; I guess they feel if there is any way to keep a cap on, as I say, and also to ensure that the standards are kept up on the houses they are living in.

That is the spirit of it. We have included quotes because often, as service providers, we speak for people we serve and so we have tried to include quotes they have made about these different areas in terms of rent increases, capital expenditures and maintenance of the buildings. We decided to make it brief because we did not want to drag it on. We thought, "Let's not bore these people; let's just get to the meat of it."

The Vice-Chair: That is fine. The members often enjoy the brief presentations because then they get to ask questions for longer.

Ms Harrington: Do you have a housing help centre here in Kingston?

Ms Somerville: Just recently a housing registry has been developed and we are just starting to have that group of people make presentations to the clients we serve, so I cannot really assess the impact it has had at this point.

Ms Harrington: It is just fairly new then. In other communities we have encountered it has really become an integral part of people needing housing and a good bridge between landlords who have something available and the tenants who need it. I am hoping your organization might be able to work with them.

Ms Somerville: Yes. In the past there have been advocacy, individuals and different community agencies but not an actual registry, a system.

Ms Harrison: One of the staff members of the housing registry was involved in the facilitation of this workshop to get comments and feedback from our clients. It was sort of the first time we had used the education co-ordinator and we certainly plan on continuing it because the feedback from the clients was that this was an area they really wanted to learn more about.

Ms Harrington: We found also that the issue of educating people to know what their rights are, but also how to get along, is very important as tenants and landlords; any way you could be of help, that is the objective of this government, to try to empower people.

In your day-to-day job, what would be the scenario of what you do in a day?

Ms Somerville: When a young person enters our centre, usually he or she is unemployed or looking to continue his or her education, employment or training somehow. For intake workers,what is involved is finding out where the person is at. You will notice in the report that 10.5% are in a crisis situation in terms of housing, food or shelter, so it has implications that expand beyond housing. It expands to someone's ability to find employment in this case.

Ms Harrington: I think we have heard of some similar type of thing in Sault Ste Marie.

Ms Somerville: Yes.

Mr G. Wilson: I would like to follow up Margaret's comments by commending you for coming in to make this presentation, and also for your organizing to help young people who need help in the community in getting established. I was wondering whether you intercede with the landlords to any extent. Do you hear from them or do you contact them on behalf of your clients?

Ms Somerville: No. There are other agencies within the city that do that. In the past we have used youth services at family counselling to mediate in terms of finding housing and also if there is conflict, but—

Ms Harrison: I think the only time we would ever have any contact with landlords would be when they want to confirm that one of the young people is placed in one of our programs so they know that they have an income. Often that is really the only time we hear from them.

Mr G. Wilson: Do you think it might be a good idea to improve the housing your clients need in Kingston?

Ms Harrison: To have more dialogue with—

Mr G. Wilson: Yes, exactly, since you have, I would say, a very good understanding of what is needed.

Ms Harrison: It could be.

The Vice-Chair: We will let them think about that, Mr Wilson, and ask Ms Poole to pursue the questioning.

Ms Somerville: As a worker I often hesitate to make comments about the agency in terms of what it is willing to do because we also have issues of confidentiality. I cannot really comment at this point, but definitely the workers at our centre are very committed to helping people find stability to be able to find employment, and so are organized on different issues and comments; so, yes, as individuals I am sure.

Ms Poole: Thank you very much for coming. We really appreciate hearing your perspective because the youth perspective is one we have not heard before in the hearings, so it is particularly valuable. I have been looking through your brief at some of the comments the youths have made and a number of them have just hit right on the mark. Youth does not mean they have not figured out exactly how things are happening.

Your section on maintenance in particular was quite helpful. One of the youths said, "Have one authority make sure that repairs are done and to impose a rent penalty when there is an unnecessary delay." I think all the components

that are important are there. It is not the landlord who is going ahead and doing the work—and being a good landlord you worry about it; it is the ones who constantly stall and keep on putting it off and there is unnecessary delay, and that certainly is one of the things we are looking at here in the act. Thank you very much for coming and continue your fine work.

Ms Somerville: Thanks very much.

1640

Mr Tilson: I am pleased that you came to speak to us this afternoon. We have certainly heard from seniors' groups and we have certainly heard from people who simply have not that good an income to afford housing accommodation. To my recollection you are the first interest group that I can recall that has come to us, so I do thank you for giving us your perspective.

The question I have asked the other groups is that students and young people, I suppose, who are starting off in the work force, cannot afford any increase and yet this legislation provides automatic increases whether or not it is needed, because there are many apartments, for example, and we are seeing it all across the province, where there is an increase in availability of accommodation and rents are being reduced in some cases, yet this legislation allows for automatic increases. I would like you to comment on that.

Ms Somerville: I just want to comment from the perspective of what I feel youth, whom we work with, would say. They do not necessarily know about all the legislation or abilities to increase rent, all they know is—

Mr Tilson: Neither does anyone else. They are not alone.

Ms Somerville: They cannot afford it; they cannot afford last month's rent, they cannot put up with poor living accommodations, so—

Mr Tilson: Let me move on to my final question, Mr Chair. The final question is, and this seems to be a problem that has developed in a lot of university towns where there are all kinds of youth there for various reasons: Have you spoken to your municipality about experimenting with different types of zoning, because clearly the common complaint that has occurred throughout, particularly in university towns, is the student who is getting ripped off by landlords for accommodation, for high rents, etc? One of the issues that has been raised is maybe the municipality should be changing or maybe the province should be, and the province and the municipality should be perhaps revising the zoning rules to allow for increased accommodation in certain areas. It is a very controversial subject; I do not know whether you have—

Ms Somerville: Often youth are seen as students, and the youth we represent are non-students; they are often low-income-family youth. I think addressing the need for accommodation that is reasonable and affordable to these young people who are making minimum wage is the goal, so I would be a little concerned if the focus was only on university towns and student experiences.

Mr Tilson: Students, young people who are starting off in the workforce, I think many of them are in the same economic category and I would recommend, if you have not already that you would communicate further—because obviously you have no fear in coming here, and that is great—with the municipal officials and that you communicate with the provincial officials as to that whole subject, because I think they would be pleased to receive your input.

The Vice-Chair: Thank you, Mr Tilson, and thank you for coming today. I might say that this concludes the public hearings on Bill 121 and that we have enjoyed our visit to Kingston. The standard of presentations here was at least as good as, if not better than, anywhere else in the province.

Mr Mammoliti: On a point of privilege, Mr Chair: We have enjoyed the day in Kingston and I think at this point I would like to, on behalf of the committee, I hope, thank Gary Wilson, who is the MPP for the area, for joining us here today. I have known Gary for a while and I know he is concerned about the housing issue in Kingston and very dedicated to trying to resolve the problems between landlords and tenants. I would like to thank Gary for coming down and taking time out of his busy schedule on behalf of the committee. Thank you, Mr Chairman.

Ms Poole: Mr Chair, on a similar point of privilege. While it is an MPP's job to represent his or her constituents and come to these hearings, and I would hope he or she would be here, that is not true of our witnesses and I do commend them for coming out and giving of their time today and their expertise and their experiences. We very much appreciated it. So thank you to the audience.

Mr Duignan: Since we are on the subject—

Mr Abel: Who is left to thank?

Ms Poole: This is like the Academy Awards.

Mr Duignan: I think we have overlooked some very important people here today. That is the staff of the committee who have served us very well over the last number of weeks, especially moving around, and indeed the ministry staff who have also followed us around and given us some valuable information. I think the committee owes them a debt of gratitude as well.

The Vice-Chair: I think we all would agree with those sentiments, Mr Duignan. One of the few things this committee can agree on all the time is that the quality of our assistance is good. I would personally like to thank Mr Wilson for arranging a perfect day in Kingston. The weather is spectacular. I would tell you not every MPP can do that when we come.

Ms Poole: Mr Chair, on a point of order: I think it was a higher authority than a whip.

Interjection: No, it was Gary.

The Vice-Chair: With that, the committee is in recess to the call of the Chair.

The committee adjourned at 1647.

CONTENTS

Thursday 29 August 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1597
United Tenants of Ontario G-1597
Peter G. Davy G-1599
Kingston Rental Property Owners' Association G-1601
Kingston Community Legal Clinic G-1604
Hastings and Prince Edward Legal Services G-1605
Doreta Apparel Shops G-1608
Midge Rouse G-1610
Ralph Wirsig G-1618
Susan Hiscott-Schop G-1619
Steven Manders G-1621
Ari Weisberg G-1624
Dacon Corp G-1627
Homestead Land Holdings Ltd G-1629
Kingston Frontenac Home Builders Association G-1632
Kingston and Area Real Estate Association G-1634
Anna Ircha G-1636
Kingston Employment and Youth Services Inc G-1638

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325–7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 10 October 1991

The committee met at 1005 in room 151.

CLOSURE OF LAND REGISTRY OFFICES

Resuming consideration of the designated matter pursuant to standing order 123, relating to the closure of 14 land registry offices.

The Chair: The committee is continuing the work that was commenced some weeks ago regarding standing order 123, concerning the government's closure of certain registry offices across the province. Officially, the motion reads that the committee will be dealing with the matter designated pursuant to standing order 123 relating to the decision of the Ministry of Consumer and Commercial Relations to close 14 land registry offices. That is why we are here this morning.

I understand from the clerk that we have one hour and 20 minutes remaining to complete our work. I assume the committee's report also has to be debated within that one hour and 20 minutes. We do not have a lot of time left.

Mr Arnott: Mr Chairman, I have a motion I would like to present at this time.

The Chair: Mr Arnott moves that this committee recommend to the minister that she immediately reopen the Arthur land registry office and that further closings be put off until the final report of this committee is submitted to the House.

Do you have any opening comments on your motion?

Mr Arnott: Yes. It is a very simple motion. I think it is absolutely critical that this motion be passed. We have seen in the last week very heavy-handed tactics brought forward by this ministry to close the Arthur registry office, when in fact this committee still has not had an opportunity to present its recommendation. I feel this is a gross example of a government that is not interested in the legislative committee process, the work of this standing committee.

The thing that bothers me the very most is that in my areas this past summer I invited some very fine people from my community—Doreen Hostrawser, Gil Deverell, Bob Janzen, Derek Graham, Robert Shaw and Warden Bert Moore—to come down to this committee, to take time off work to present their case, and it has been entirely to no avail. That disturbs me greatly. I think this motion has to be passed if we have any respect for those people and any respect for ourselves as members of this committee.

Mr Tilson: I notice there are only two members of the government party here. I do not know whether they are prepared to vote on this motion now or whether they are going to be asking for their usual 20-minute recess until their members appear. I know I have some substantial remarks to make, and if other members of the government are coming, I hope they will be here so they can hear those comments. I guess my question to Mr Abel is whether or not he intends to have other members of the committee here this morning.

Mr Abel: Yes, it is our intention to have our full committee here very shortly.

The Chair: Do you want to withhold your comments?

Mr Tilson: There really is no point in our proceeding on a motion such as this because I know perfectly well what they will do. They will simply say, "We're going to recess for 20 minutes," so they can round up their troops. We might as well do that now, if they can undertake to do that.

The Chair: Before I ask whether or not we should recess the committee for a while, I think we should clear up the list we have.

Mrs Y. O'Neill: I find this motion very acceptable simply because it has almost always been the tradition at Queen's Park that when a committee is studying a major matter such as this which affects many communities, the minister allows and certainly gives every bit of consideration to the work of the other legislators on the matter.

I am quite offended that we are not being given the privilege of presenting our report to the minister in person and that we are not having the decisions delayed at least until there is a chance to study that report. I am sure the minister has been aware of the hearings and I do not deny that she has read the Hansards as she says she has, but this committee has not completed its work, as you indicated earlier this morning, and often, particularly on these kinds of matters that are opposition matters, the last one and a half hours is a very critical discussion point because that is when we make our final resolutions. I will be supporting this recommendation.

The Chair: There seems to be a wish that we adjourn for a period of time.

Mr Tilson: I do not want to get hung up on some technicality. I do not want to adjourn for a few minutes, have our debate, have you call the vote on the motion and then they ask for another 20-minute recess. I do not want to get stuck up on that one. I want to make it clear as to when the government members are coming to this committee.

The Chair: The Chair cannot be of help in that regard.

Mr Tilson: If they do not want to be here to hear us, then let's proceed.

Mr Marchese: Mr Chairman, in fairness, what I have tried to do is to make sure that our members are here. I expect that they will be here shortly.

Mr B. Murdoch: It is an insult. There is no one here to hear us.

Mr Tilson: We will proceed, Mr Chair.

Mr Abel: You have done the same thing.

Mr B. Murdoch: It is an insult. Where are your people? Do you not think this is very important? Come on. Ask for a recess and get them here. What is going on here?

Mr Villeneuve: I will participate in the debate. There is a private members' hour going on in the Legislature and you, sir, have a private member's bill coming forward. I want to be part of the debate there, so I will participate now.

My riding now has three registry offices that are being closed; the riding of S-D-G & East Grenville will be left without a registry office. We now have three. Does this mean that this government is now going to consider Stormont, Dundas and Glengarry as one? Does that mean they are going to close the three agricultural representative offices? One is in Glengarry, one is in Stormont, one is in Dundas and one is in Grenville. Does that mean this is the kind of government we are going to have, without consultation? Indeed we sat in this very room when a large delegation came down from Stormont, Dundas and Glengarry to express very deep concern against the closings. Not one person was in favour of the closure except some of the ministry officials for their own empire-building.

What do we have here? We have a government that is proceeding like a steamroller. I was very annoyed the other day when the minister, in reply to my colleague the member for Wellington, said that what my colleague was saying was not true, there was not a group of Ontario Provincial Police involved. I am sorry, but there was a group of Ontario Provincial Police to move, of all things, the documents in a registry office at 6 o'clock in the morning. I let slip out that it sounds like a police state. I withdrew and I do not want to make it sound like a police state, but it could be a police province or it could be very heavy-handed government bureaucracy moving in against the wishes of all concerned.

Information has been given to me that the Ministry of Consumer and Commercial Relations is looking to spend money in the Cornwall registry office, not only to accommodate the documents but to accommodate the much heavier traffic that will be forthcoming: three times as many people going to Cornwall, no parking, no room. No one talked about the capital costs. The same thing is happening in Brockville, where the Prescott registry office is moving. They do not even have facilities for wheelchairs.

There will be considerable capital expenditures in the receiving registry offices. No one spoke about that. It is absolutely ludicrous to go ahead in the dead of night or early dawn shutting down registry offices with provincial police assistance and saying they are doing it for the good of the people. It is absolutely ludicrous.

Mr Jordan: I represent the riding of Lanark-Renfrew. The case in that riding is a little different from that in some of the other ones, in that one year ago, August 1990, we opened a new $1-million building after three years of study by the previous government on the need for a registry office in the town of Almonte. The previous study, as I understand it, not only covered the northern part of Lanark county but looked at a section of West Carleton and the city of Kanata, which the Almonte registry office was servicing.

I had a delegation travel 600 miles at their own expense. I had Dorothy Finner, the mayor of Almonte; lawyer Pat Galway; Garth Turner of the real estate board; Reeve Barr of Pakenham; Paul Finner, the warden of Lanark county, and Jonathan Robinson, the president of the NDP riding association, who was certainly upset and understands the situation in my riding. He was doing his very best, not on a political basis but on the actual needs of the office in Almonte and for the people in that area, which he understands better than people who are not familiar with the area. He was willing to assist, as I say, not on a political basis but just as an active person in the community.

When we came and made our presentation to this committee, one of the government members basically referred to our group as a bunch of lobbyists who were actually brought here by myself, which is so far from the facts. These people came on their own initiative, at their own cost. What bothered them so much was they had gone through three years of indecision with the previous government because the old registry office was so small. They did the needs study and went ahead and built the building. One year later, 1991, this government, without any consultation with the mayor, without answering any of the correspondence that started in May—it was later answered in about August, but there was no consultation, no communication—just went ahead and made an announcement that on October 18 this year the new office would be closed.

We find that to go ahead with that decision before this committee has reported is undemocratic. It makes a joke of the whole system. Not only am I witnessing it at the committee level but also, as you saw yesterday in the House, announcements are being made without giving us a chance to debate. Even though the people of Lanark-Renfrew have elected me, at times I really wonder what role I am going to be allowed to play in government as far as the province of Ontario is concerned.

Mrs Y. O'Neill: I would like to speak about the same office that Mr Jordan is speaking about. Certainly the people in Almonte are still in a state of utter shock and disbelief. I know they came here. I did not happen to be here that day, but they certainly met with me and several of my colleagues from the Liberal Party when we visited Smiths Falls. They have also been in contact with us in the Ottawa area.

The study that took place under our government certainly was a long process for the people in that community. The building was built to today's standards and that is not the case with the office to which this group is now being asked to move. I find it very hypocritical, as Mr Villeneuve said, that there is really no study about the costs to adapt all these other buildings. I was very perturbed by the minister's statement the other day, "Oh well, people have to travel 200 kilometres to do this anyway in lots of parts of the province." We have done a very preliminary study about that and certainly it is 200 kilometres in only the most unusual northern Ontario circumstances.

1020

I find it difficult that on this matter the government has taken absolutely no consideration of people's time—because time is money—people's convenience, the expense that is

involved and the taking of some business out of Almonte. "Oh well, they can get a lawyer in the other communities." This does not help Almonte or any of these other communities at all, nor does it help the citizens or the small business people.

The impact of these closures has not been studied. That is my ultimate conclusion. I think if it had been studied, the decision would not have been made. To do it according to some formula where there is one office in a county does not seem to me to be terribly logical when people's patterns are not totally governed by the boundaries of counties. I find that is the way this decision has been made. It has no reference to the social habits, the economic conditions or the convenience of those people we are supposed to represent in this Legislature.

I feel very strongly that this has to be rethought and that the decisions and the recommendations from this committee have to be given consideration. It was in the middle of the summer and, as Mr Villeneuve has said this morning, with very short notice that people came here and made their presentations. Is that all for naught? Is this government not going to have any movement at all when ratepayers come with logical and very real reasons that this will change their lives and the economies of the places where they live?

Mr Tilson: We have seen much in the last number of weeks that has given members of our party, and I think members of the public throughout the province, great concern as to the whole process of how this government is operating with respect to the closing of registry offices. I think the most shocking news came yesterday when we were informed by Mr Arnott in the House, in a question to the minister, of the process by which the Arthur registry office was closed. Police were literally brought into the picture. Members of the Ontario Provincial Police were brought to the building. The closing actually took place at 6 o'clock in the morning. These people have never been up that early in the morning. It is absolutely shocking that a government would operate in such a clandestine, cloak-and-dagger fashion. It is unheard of.

I have never heard of a government operating in such a sneaky, underhanded fashion as the manner in which this registry office was closed, the whole process from start to finish. In the House I asked the minister whether she felt the process was fair and equitable. My question was, should the closings take place when this committee was still deliberating on this subject under section 123? Should the process not be allowed to finish it out? Why do we have section 123? Why have it? The minister is just going to go ahead and close the registry offices. She has no care at all.

The orders in council were passed, as I understand it, on July 18. This was after the decision to hold these hearings, which took place in June. In other words, the decision to hold these hearings took place in June. These hearings took place in August. I do not know what we say to people around this province—lawyers, accountants, surveyors, the president of the Canadian Bar Association—people who took time to come and speak on this issue when it was all a charade, a joke.

Why bother? Why have section 123? Why are we here, Mr Chairman? You must feel unbelievably embarrassed when you know perfectly well that what you are doing means nothing. All this, together with ministers making statements outside the House is just adding to how this government is operating, and it thoroughly disgusts me.

The minister has not appeared once before this committee to explain her actions. The assistant deputy minister, Mr Daniels, came to express the government's position. The deputy minister has not appeared; the minister has not appeared. We were informed that she was on holidays in the Maritimes, and subsequently I understand there was a funeral, which is regrettable. But she has an opportunity to be here now. She knows perfectly well this is an issue. She knows perfectly well there are court proceedings that precede it. The people in these ridings are very upset.

There are two lawyers here this morning representing people from the community. Mr Janzen of the firm Smith, Janzen and Alaimo, I believe, from Arthur is here. Peter Fallis from Fallis, Fallis and McMillan is here not only in a legal capacity but representing the people of those ridings. They are most concerned. Legal proceedings took place this past week and I have received letters, portions of which I am going to read to you, Mr Chair, where a group, in the form of a coalition, made an application for injunction proceedings to stop the government from closing the Arthur registry office.

Two days were spent in Osgoode Hall on this subject in an effort to prevent the closing of the registry offices in Arthur and Durham. It occurred on Wednesday and Thursday, October 2 and 3. Mr Deverell from the law firm of Grant, Deverell, Lemaich and Barclay of Mount Forest has written to me explaining the events of those court proceedings. Those were confirmed by a subsequent letter from Peter Fallis, who is here and who, I might add, has requested that he be allowed to address the committee. I explained to him that unless the committee gave its consent, that is unlikely to take place.

On October 2 and 3, these proceedings came before Mr Justice O'Driscoll. The judge reserved his decision and it was finally dismissed on Friday October 4. Then, of course, there were the final events, the clandestine events. Why would the government act in such a fashion? They have a judge's order saying what they were doing properly and yet they continue to try and close things in the middle of the night. Why would they do such a thing? Why is the minister not here today to explain her actions and her government's actions?

One of the arguments put forward to Mr Justice O'Driscoll related to the fact that the standing committee on general government had not yet reported back to the Legislature. So there is a legal issue and there is also the general perception of this committee which I hope this committee will look at, because if this committee does not do something, then as far as I am concerned we should never again have any meetings on section 123 because they are absolutely meaningless. What we are asking the government not to do while we are in the process of conducting our proceedings, the government goes ahead and does anyway. They have closed Toronto, they have closed Bowmanville, they have closed Arthur. What is next?

Mr Jackson: Almonte.

1030

Mr Tilson: Almonte is next and Durham is after that, all within the next two weeks, yet this committee has not even submitted its report. We have not even finished debating the subject. That is how this government operates.

The argument was put forward as a matter of law that because the standing committee on general government had not reported back to the Legislature or otherwise concluded its intentions as expressed by you, Mr Chair, on July 30, and the matter with respect to the registry office closing was designated for a committee hearing on June 25—and it was. This was of course before the closings.

The most dastardly remarks of all came at these judicial proceedings. Submissions were made by the solicitor for the ministry. J. M. Haberman, who is a solicitor acting presumably on behalf of the Attorney General but also on behalf of the Ministry of Consumer and Commercial Relations—a solicitor acting on behalf of the province of Ontario—argued against the need for the minister to await any input whatsoever from the standing committee on general government. That is fair; she has the right to do that. It is how she did it, in speaking on behalf of the government and the minister.

These were her submissions as to why it would serve no purpose whatsoever to delay, and I state these. I do not have the transcript. I do not even know whether a transcript is available, but I have two letters in which the identical comments were made by individuals who were present at those judicial proceedings. One is Gil Deverell, whom I am referring to in this letter, and the other was Peter Fallis, who is here this morning. I confirmed outside these hearings whether this was in fact said.

This is what Ms Haberman said as to why it would serve no purpose whatsoever: (1) the general government committee is of no significance; (2) the general government committee is really just a way of creating political heat; (3) the general government committee is composed of six members of the NDP and five from the other two parties, and all the NDP members could be absolutely counted on to stick to the government's position of closure.

That is what this government thinks of section 123. That is what this government thinks of you, Mr Chairman, and of this committee.

Why are we here? Why are we here debating this? My guess is that they will turn this motion down because that is what their masters have told them to do. What are we to tell Mr Manning, Mr Carter from Orangeville and the other people who appeared before this committee who took time out, prepared written briefs, spent hours preparing and came down here?

The Chair: I am going to ask the clerk to try to obtain court transcripts. I am very concerned about what you are telling us this morning.

Mr Tilson: You should be, Mr Chairman. I find it absolutely shocking that a solicitor acting on behalf of the Attorney General of Ontario and the Minister of Consumer and Commercial Relations would make these statements before a judge of a court of Ontario, Mr Justice O'Driscoll. It is absolutely shocking and there will be more to be heard, I can guarantee you that.

Let's all talk about the Charter of Rights. The Charter of Rights says the administration of justice must not be brought into disrepute. I say that is what this solicitor has done and what this government is doing. They are bringing this whole procedure to a point of disrepute. Why have it? Unless you do something about it, Mr Chairman, unless this committee does something about it, we may never again meet with respect to section 123. Why bother?

Mr B. Murdoch: Let's call the vote.

Mr Tilson: I have no further remarks.

Mr Abel: I am sorry Mr Tilson feels that way, because the whole consultation process we have gone through on this section 123 has helped. It certainly has helped me a great deal in understanding why it was done. I went into this whole matter with an open mind. I was trying to be objective, I was listening to all the presenters.

Mr Tilson: You do not have an open mind. The solicitor has already said how you are going to vote.

Mr Drainville: Mr Chairman, that is unacceptable behaviour.

The Chair: All members know that interjections are out of order.

Mr Tilson: We will check the transcript and see what she said.

Interjections.

The Chair: Order, please. Mr Abel has the floor.

Mr Abel: One thing I learned was that consultation is the cornerstone of this government. I also found out that we cannot govern by opinion polls. Our responsibility is to act on behalf of the people of this province, and I feel that the report this side of the committee has submitted—obviously, Mr Tilson, you have not read it, because you made the comment earlier that we had not submitted a report. Well, we have. It should be in your package.

Mr Tilson: The decisions to close the registry offices were made before you even thought of making a report.

The Chair: Order, please. I understand why members are perturbed this morning, but all of us need a chance to speak. All members know the rules by which we govern ourselves. Mr Abel has the floor.

Mr Abel: There has been a great deal of concern over the proposed closing of the land registry office in Almonte. After hearing several presentations and having listened to a great many concerns, in our report—and perhaps I should read this, as obviously you have not read it—the first recommendation was:

"In an effort to exercise fiscal responsibility, we need and support this cost-cutting integration plan. However, while the majority of users will be better served by the integrated offices, we feel that in the county of Lanark, the community would be better served if the Perth office was closed and Almonte office expanded to serve the county."

That was one of the government's recommendations. I take offence at some of the comments Mr Tilson has made. I think they are unwarranted, unjustified and very narrow-

minded. I suggest that Mr Tilson read our five recommendations before he comes in here like a fanatic zealot, shooting from the hip. That is all I have to say.

Mr Drainville: Let me just say that the viewpoint put forward by the counsel to the Attorney General in saying this committee had no significance was totally unacceptable. It is unacceptable at any time for any counsel representing a ministry to say such a thing.

Mr Chairman, I need your attention on this. It is very important that you look into that and that a comment is made from this committee to show that we do not accept at any time for such counsel to be making such comments about this legislative committee or any committee of this House. I want to make that perfectly clear, first off.

The Chair: Mr Drainville, once we have received the transcripts, I will make them available to all members of the committee. We may want to meet, depending on what is actually in the transcripts, to discuss what is there and what we wish to do as a committee. Frankly, as the Chair of this committee, I am not going to be held responsible for the actions of any party that is represented on this committee and/or the government and the government employees.

I want to make it very clear for the record, for anyone who is watching, for all the witnesses who came, that my duties here are to make sure that we have orderly meetings, that we conduct our work properly and that we report to the Legislature on a timely basis, which is our responsibility. I can in no way control what anyone on this committee wishes to do as far as putting his views on the record, and least of all can I control a solicitor working for the government.

Mr Drainville: Absolutely, Mr Chairman. That was not my intention. My intention was to let you know that it does not take just an opposition member to be affronted by such language and by careless disregard for the Legislature and the rights of the Legislature. We on the government side also do not accept that kind of behaviour and those kinds of public statements being made. Let's be very clear about that.

As to the other things that have been said by Mr Tilson, let me deal with them. First of all, Mr Tilson asked why we should do these 123s. The reality is that section 123s are the opportunities for the opposition to bring forth issues that they want to discuss in committee. It gives them a forum to be able to discuss issues that are considered to be important for them. That issue has been brought forward to this committee. I believe the committee has done some justice towards that.

I can understand some of the feelings of the honourable member in terms of the communities that have lost the registry offices. I myself would feel very similar if I had lost a registry office as well, so I can understand some of the feelings around that.

1040

Stating that the honourable member has some understandable feelings does not allow for some of the emotional rhetoric that has come forward this morning. In fact, by implication, he has said some things which I do not think are acceptable in terms of the response of the government. Certainly the government members of this committee have endeavoured to do their best to try to address this issue. That there is a difference between the opposition—

Mr Tilson: What have you done? You have ignored everything. You have not done boo.

Mr Drainville: Take a look at the report.

Interjections.

Mr Drainville: Obviously you think that by doing a section 123 you can force the government to change the course it has decided upon.

Mr Tilson: All we want to do is to have you listen. You are not listening; you are closing the registry offices.

Mr Drainville: In fact the minister has indicated very clear reasons why she is moving in the particular direction she is going.

Interjection.

Mr Drainville: Is this a debate or do I have the floor?

The Chair: Mr Drainville deserves the chance to express all his views without constant interruption.

Mr Drainville: The point I am trying to make, Mr Chair, is very simply that all this emotion and all this rhetoric we have heard this morning is not particularly helpful to this debate. We have heard witnesses; we have put forward the various positions. That is what this forum is for. To say, "We won't go through with section 123 again," is patently ludicrous in the extreme, because all you would be doing is lessening your own power as an opposition to have certain elements and certain issues focused on. It is just pure and absolute rhetoric that you would not do any section 123s. I await the future with some interest to find out whether there are any put forward by you, Mr Tilson, in the near future.

The last point I would like to make is that in terms of the government's position, it is a difficult position when you make decisions that are going to affect local communities. I have experienced that in the past and I have fought against certain decisions that have been made by government in the past. I applaud members for bringing those things here to committee, because they deserve to give support to their local communities on those issues.

I also say the government has to make difficult decisions at times which are not happy decisions for local communities. That is something we have been forced into for financial and other reasons. The government has put forward its position, and obviously we on this side will have to consider that very intently.

Mrs Y. O'Neill: I certainly want to begin by saying I am glad the government has reconsidered the Almonte decision. For members whom I have related to and for members of the community, that is very good news, but it still leaves all the other offices.

It is really an accountability issue. We have a study going on of a really focused situation in this province that affects a few of the 800 communities, and I find it very difficult that the government's timetable could not at least be respectively delayed until the section 123 report was presented. That to me is really offensive.

I also want to remind you that every transaction—and we have done a very intense study on this—is now going

to cost about $100 more for many communities. These are individuals who will have to pay $100 more either in travelling, in engaging a lawyer who is outside their community or other related expenses. We are talking here about a lot of people. We are talking about people who are property owners, municipal officials, financial institution employees, surveyors, law clerks, independent title researchers, appraisers, paralegals and even historical societies. These people are all affected and, as my colleagues have mentioned, lawyers and accountants. This is not a simple matter. It often involves repeat visits to land registry offices.

That being said, it is convenience, it is certainly economy, and I feel very strongly that there needed to be a much slower process engaged here. I cannot understand the necessity for speed on this matter.

The other side of the coin which I have a great deal of difficulty understanding is moving to facilities that now need to be upgraded when we are in facilities that do not need that expenditure. We are talking about expenditures in times of recession. We have offices that are not automated and we are now going to move them to offices that are even less automated. All that ties together, in my mind, with a government decision that has not been well thought out—the impact studies are very minimal—and a decision taken with far too much haste and even disrespectfully taken before this committee has presented.

Mr Sorbara: Let me begin by saying it is a pleasure to participate in your committee on this 123 matter. Although I guess it is my first opportunity to address you and this matter in the standing committee on general government, I do bring a particular perspective, I think, to the debate inasmuch as I had an opportunity from August 2, 1989, until September 30, 1990, to be the minister responsible for the land registration system in Ontario and therefore as well the minister responsible for the offices and systems that collectively make up our land registration system.

I am delighted that this committee has chosen to examine this question under section 123 of the standing orders. I say that because the determination, so soon in the mandate of this new government, to close these land registration offices simply discourages a former minister.

I just want to advise you that the pressure in government ministries to close offices, to close down programs and to restrict services is always there, in every ministry. My friend Mr Marchese will know that during his time as Culture and Communications minister there would have been a number of proposals to find money here and cut programs there because of the lack of public resources to do everything you want.

But as I recall during my time there, our discussions were not directed towards closing offices to save money but towards enhancing the effectiveness of the system and looking at a number of other things that could be done in land registry offices to create down the road a kind of government services store where you could go into an office that formerly just took land registration documents and perhaps get your licence, deal with matters relating to OHIP and a number of other things. That is what we were talking about. I ask the government members, what happened?

Let me propose to you what I think happened. You have a series of weak ministers responsible for the ministry, with no disrespect to them. While Mr Kormos, the member for Welland-Thorold, was there, he devoted virtually all his time to issues relating to automobile insurance. He fought the valiant fight. He tried to get the government to honour its commitment, and he lost. He lost more than that battle; he lost his opportunity to sit on the executive council.

Then Ms Churley takes on the responsibilities. It is sad to say that this is a perfect example of a minister's inability to understand the political and substantive ramifications of matters the bureaucracy is pushing at her. That is the long and the short of it.

1050

What many ministers do not understand is that they really are responsible. They have the opportunity to say to government bureaucrats, "No, we're not doing that. I understand why you want to do that and that you think this is going to be more efficient in your system's management. But our responsibilities are not to you, the bureaucrats. Our responsibilities are to the people of the province, to the people of Arthur, to the people of"—the list is here; I do not have to go over it.

Do you know something else? This little bit of system reorganization is simply a rather public plea on behalf of a branch of government for some more money to maintain a specific level of service. If you want to see the evidence, sir, I have it right here before me. If you care to turn to page 1 of the research done by our researcher Andrew McNaught, entitled "Background Provided by the Ministry," let me tell you this represents the ministry's view of this matter. Look at the first sentence in the last paragraph, "This situation"—that is, maintaining a number of additional offices in counties—"could be maintained as long as the budget allocated to the system was sufficient to do so." I have never seen a clearer plea by a government department for a little more money to maintain the system.

What New Democratic Party members of this committee should be doing within this context is thinking about the people who actually use the system and supporting the ministry's plea for more money. That is all you should be doing, not defending a cut that some systems analyst says will make the system more efficient. That is just bureaucratic hogwash.

These offices are not important in communities because some landlord is receiving rent; they are important because they represent the ability of a community to deal with its business expeditiously. Do you know how much a lawyer is going to charge to get a document 100 miles down the road to be registered by 4:30? Do you know what the cost for a simple house transaction is going to be if somehow that lawyer does not get there by 4:30? He or she has to go back tomorrow. The simple answer to this is a little more money in the system to maintain offices that are needed by communities.

I want to point out, as quickly as I can, the mistakes the government members have made in their recommendation. I turn now to page 3 of Mr Abel's letter of October 3. The first recommendation—I think he read part of it into the record—was, "We need and support this cost-cutting integration

plan." Systems analysts in the bureaucracy do not need your support; they need critical analysis from politicians. You do not really support it. You do not know the first thing about it. You are just told to support it. Then you go on to say, "Okay, we'll deal with the one office in Almonte." Big deal. What about Arthur? What about all the other communities?

Your second recommendation was, "That everything possible be done by the government to find new tenants for any government building that is being vacated because of these integration plans." My God, here are government members arguing for landlords. The landlords do not need your help. The landlords have lots of empty buildings. They are suffering very badly in some communities, but for you to recommend that somehow they get preference is absolutely ludicrous. What about the other landlords sitting there with empty buildings? Surely this debate is not about whether or not landlords are going to lose some more tenants.

The third recommendation was, "That all ministry employees receive the support necessary to make any transition they must undertake as a result of this integration." Give me a break. Is this a human resources issue? No, it is not. We have all those systems already in place. It is not a human resources issue; it is a services issue in smaller communities.

The fourth recommendation—and I will be done in a moment, Mr Chairman—was, "That each individual and group that wrote to the minister receive a timely acknowledgement." Is this 123 business about public relations? No, it is not about public relations at all. I repeat, it is about services to communities. You, as elected politicians, have a responsibility not to think about public relations but about services to constituents, not just yours but constituents all over the province because you have the majority in the House and you form the government.

Your final recommendation: You strongly recommend that in the future the regular user groups be consulted, to paraphrase the recommendation. What you are saying there is you simply want to apologize for the terrible mistake that has been made here. But you do not need to apologize. You need simply to change the government's mind.

If you could speak to the minister and the Treasurer and the Chairman of Management Board of Cabinet and say, "Why don't we do the right thing here, acknowledge the plea of the ministry for a little bit more money and keep these offices serving small communities open?" you would have discharged your responsibilities as politicians and the people ultimately would thank you for it. I am not sure they would re-elect you—I hope they do not—but they would thank you for discharging your responsibilities.

I plead with you to abandon these recommendations, to support the notion that these offices should stay open and that the funds necessary to keep them open be provided.

Mr B. Murdoch: I want to know how stupid you think we people are over here. I cannot believe you sat over there, Mr Abel, and said that you were listening. Right off, the very first day, on Monday, July 29, Mr Ferguson, who now happens to be a minister, of all people, when we asked for the minister to be here to hear these proceedings—and this was before we heard that she was away on family problems; it was before that came in that we asked for her to be here—Mr Ferguson said the minister is on record as stating that she has put forth the reasons and rationale behind it.

Quite frankly, I just do not see at this point any good reason why we should ask the minister to come and appear before this committee. What kind of crap is this? They are not even going to listen. Right off, the very first day, that was brought out by the government. You have not listened since.

The minister does not care. You talk about having this process. What is the sense of having the process if nobody is going to listen to it? The person who has to listen is the one who is making these decisions.

Madam Chair, since they have finally all arrived, let's vote on this motion. They think they are going to help us out, so here is a chance to help us out. The facts are that Arthur is closed and this committee is not finished, so you did not listen, obviously. You did not wait. You have no democracy left. It is your way or no way. It started right after you got here. You told us you were all going to listen and you never did. So Madam Chair, I want to see how they are going to vote on this motion.

The Acting Chair (Mrs Y. O'Neill): In order to do that, I have to ask, those in favour of taking the question at the present time?

Mr Sorbara: This is the acid test.

The Acting Chair: Actually that would be a tie vote, because—

Mr B. Murdoch: I would like a recorded vote.

Mr Sorbara: Let's just take the vote again.

The Acting Chair: The way I see it, there are only two PCs permitted to vote on this issue. So I ask again, who is in favour of taking the question at this time? That vote is lost.

Next speaker, Ms Harrington.

1100

Ms Harrington: First of all I would like to say that the duty of this government is to listen, certainly, to our constituents and to listen to the people of this province. Our ultimate duty is to make decisions, and I am sure you all realize that.

The question of the role of this committee is very important, and that is what has been brought into question here, and the role of the section 123. Certainly I think the role of this committee is important. With regard to the question of the role of the 123, this was scheduled for last July. Now it happened that for some reason we did not use the total 12 hours, and that is why this hour is here on October 10.

The real question is, when a government decision was taken—which was announced in the House, I believe, last April—and the dates of these closings were announced, and the opposition has asked to deal with this issue in the general government committee to hear the people involved—we say, "Yes, we are willing to do that"—how does the report from the standing committee on general government impact on the decision of the government? I would like to ask the researcher if he could at this time tell me if in the past any report of a committee dealing with section 123 impacted—changed or delayed—the decision of the minister to go ahead with these closings. The problem, of

course, is the timing. If the researcher cannot answer now, I personally would like to get the answer whether this has happened before.

Mr Sorbara: I appreciate Mrs Harrington's interest on whether a 123 motion has ever changed the mind of the government, although I suspect the reason she asked that is to try and come to grips with her own responsibilities here. The error that is probably being made, and I have seen this being made by many members of the New Democratic Party who sit on committees—I want to remind them that they are not government members; they are members of the Legislature who are part of the government party. You are free here to try and exercise your responsibility as a member of the Legislature to try and influence the government in the same way opposition members are. You do not have to be speaking on behalf of the government.

In my own memory we have so little experience with 123 motions. They just came into the rules very recently. But I can tell you frankly that during the time the Liberals were in power—

Mr Marchese: If I could interrupt, the member here has the floor to speak. I do not know why Mr Sorbara is commenting on this matter.

The Acting Chair: I thought this was a supplementary. Let's have the researcher comment. I feel it is a very difficult question, but we will ask.

Mr McNaught: I cannot answer that.

The Acting Chair: That is fine.

Ms Harrington: We can finish off.

The Acting Chair: I think Mr Sorbara has certainly given some light on that, from my own experience. In any case, if the researcher at a future date wants to have a conversation with Ms Harrington, that is certainly permitted.

Ms Harrington: First of all, I would request that I personally receive information with regard to the status of 123s in the past because I think that would be helpful. Second, the reason I asked this—

The Acting Chair: If I may be realistic, and I have very limited experiences, Mr Sorbara said the first 123 was in January 1989. I think we, as a committee, could ask the researcher to list all those items that have been dealt with under 123s. Then I think we could make a judgement as legislators whether changes were made. I would ask that.

Ms Harrington: Fine, I would appreciate that. To finish my comments, the reason I ask this is for the edification of Mr Tilson especially. He felt so slighted with regard to this committee, and certain words were used here which I do not think should have been used. I think it should be clear to him what the mandate of section 123 is.

Third, with regard to the remarks of Mr Sorbara just now about what our role is, I should tell you that I feel I have the right. I have gone to the Office of the Premier about this issue. I have gone to the minister, I have gone to her staff, and that was last July. I have listened and talked to people from the community, such as Mr Fallis, so I think that is what my role is.

The Acting Chair: Mr Arnott has the floor.

Mr Sorbara: After Mr Arnott, I would just like to respond.

The Acting Chair: There is another speaker ahead of you, but in any case you cannot continue to have supplementaries, Mr Sorbara, unless they are directly related. Mr Arnott, please.

Mr Arnott: I would just like to make a few additional comments to what has been said by the government member specifically. The member for Wentworth North talked about the government's continued commitment to consultation. I do not know what his definition of consultation is. This government's definition of consultation has become so bastardized that it is the opposite now, I submit.

We had every single presenter come forward opposing the registry office closings. I received a copy of a letter from the president of the Wellington NDP riding association pleading with the minister to reconsider her decision. Another member of the NDP executive in Wellington county made a presentation and he mentioned the fact that he was a member of the executive at large of the Wellington NDP association. He pleaded with the minister to reconsider.

The minister stated in the House within the last week or so that she had not been informed that this committee was going to be hearing presentations under section 123 on registry office closings, when in fact the member for Lanark-Renfrew and myself on June 27 personally approached her outside this building and told her this was going to be coming. We invited and encouraged her to come. She was wrong and she was not telling the truth in the House.

The Acting Chair: That is a difficult statement. You have the same rules here as we have in the House, Mr Arnott. I ask you to withdraw those remarks, please.

Mr Arnott: Okay. She misinformed the House.

The Acting Chair: Are you completing your remarks at the moment?

Mr Arnott: Yes. Something that has not come up—it was mentioned by the member for York Centre, but I think it has not been brought to this committee today—is the importance of these offices to rural Ontario specifically. In my community of Arthur and in north Wellington, in rural Wellington county generally, there is only one other provincial government office. We in rural Ontario deserve a minimum basic level of provincial government service available locally to us. We are not getting it. You are closing this office down.

Interjection: Drive to Guelph.

Mr Arnott: You are saying we can drive to Guelph. That is not acceptable, and that is further evidence of this government's total misunderstanding of rural Ontario.

Mr Villeneuve: I have just a few closing remarks. Presently there will be litigation to identify whether it is legal for the government to close down the only registry offices in Glengarry county, Dundas county, Grenville county and Russell county. Those are the only registry offices in those jurisdictions. Presently there is litigation by some members of the legal profession who were here. Mr Ferguson, the member for Kitchener, now Minister of Energy but then a member of this committee, actually belittled

these people. He had an élitist, arrogant disposition and a disdain for the actual process that was happening here. I cannot forgive him for that. It is a rather sad situation.

With a stroke of the pen the Minister of Consumer and Commercial Relations is closing down 14 registry offices, three of them in the jurisdiction I represent provincially, some of which date back to 1795. They are not johnnies-come-lately. Yet she does not have the authority to give a charitable group Nevada tickets. It does not make any sense.

Not once did the minister address the cost. We know that in Cornwall and Brockville, both registry offices that will be receiving the business of those that will be closed down need considerable capital expenditure, if not new expenditure. The assistant deputy minister said, "We have room to accommodate the files." The question of whether we have room to accommodate the clients was not answered, and we know very considerable capital expense will be needed in both Cornwall and Brockville.

I have to appreciate that Ms Harrington was here and showed respect and concern. I thank her for having been at least understanding, which is better than I can say for Will Ferguson, her colleague.

In closing, I wonder about these hearings. When this type of steamroller action is allowed, what are we doing here? Thank you.

The Acting Chair: I now have Mr Marchese.

Mr Marchese: I am happy to be a member of this committee. It is a very different experience for me, but this is quite an important one. I am enjoying it already.

The Acting Chair: He should have been here the first day, should he not, Mr Drainville?

Mr Marchese: I am sure it was exciting that day. Like Mr Drainville, we are not happy about those closings. I understand why most of the members here, all the members opposite who are here, are unhappy with those closings. I also accept much of the emotion that people have been putting into their arguments. It is understandable. We do not necessarily disagree with a lot of that emotion. Nevertheless, we have to make decisions. When we do there is disagreement and we accept that. That is part of this natural process. But decisions have to be made, and I want to make a few arguments about why they have to be made and how different our views are when we make them.

Mr Sorbara made a comment, "All we need is a little more support; support this ministry for a little more money." He made reference to the position I held just a while ago. In reference to that, there were thousands of organizations, big and small, that could use just a little more money. There is constantly a need in that ministry, indeed in every ministry, for just a little more. The point is, we do not have the resources. You well knew in your previous position, as indeed we now know, that we do not have the resources or the money to satisfy all those needs coming to my colleagues here, the Conservative members, who constantly berate us about our spending and talk about fiscal restraint all the time.

1110

Mr Villeneuve: You are going to save money by leaving them open, sir.

Mr Marchese: I understand that. They present some contradictory positions, and it is a very paradoxical problem that we face and they face all the time.

Mr Jordan: On a point of order, Madam Chair: I have just received word that the deputy minister and the assistant deputy minister are in Perth at the present time announcing the change that Perth will be closing and Almonte will be the registry office, the new building.

Mr Tilson: Another statement outside this House.

Mr Marchese: Madam Chair, the member raised a point of order. Could you rule on that?

Interjections.

The Acting Chair: Mr Murdoch, please. I am sorry if you do not want to listen. There are speakers on the list and I will hear them, so if you do not want to listen, you will have to leave the room. Mr Jordan, you made a point of order, but Mr Marchese has the floor. You have made a statement. I do not think it is a point of order; it is a point of information.

Mr Marchese: I just want to point out the paradoxical nature of their comments, and the contradictory nature of their comments is something that I think needs to be stated and elucidated all the time. We feel the reduction of the number of locations is the most prudent thing for us to do at a time when we face a fiscal reality that is most difficult. I believe we have done the right thing.

The Acting Chair: We have less than 15 minutes left. I have Mr Sorbara and then Mr Murdoch.

Mr Sorbara: I just urge that we vote on this now. I want to remind members that nothing will happen if they support this. The government will still make up its own mind and Ms Churley will still consult with her officials. This does not automatically open up Arthur; it just gives you an opportunity to express your own views, not the government's views.

Have you not heard every political commentator and every leader talk about the fact that we need to give more freedom to MPPs to express their own views? Well, the freedom is waiting there at the east door. It is right inside here. All you have to do is express your personal view here, rather than the corporate view. If you expressed your personal view, I am damned sure you would support this motion on Arthur. Then the government might do something else.

Support it. Lightning will not strike. The world will not come to an end. You will have discharged your responsibilities. Do it, and MPPs will suddenly have a greater sense of freedom. I have not seen one instance in one year and three months when any member of the NDP has voted against the party line in committee. Let's have a national celebration today and let's see it here today.

Mr B. Murdoch: If they call for the vote, I am ready to vote.

The Acting Chair: All right, I have to ask the question again. All those in favour of calling the question? We now have a majority of people.

Mr B. Murdoch: A recorded vote.

The committee divided on Mr Arnott's motion, which was negatived on the following vote:

Ayes–3

Arnott, Murdoch, B., Sorbara.

Nays–6

Abel, Dadamo, Drainville, Hansen, Harrington, Marchese.

Mr B. Murdoch: May I say something?

The Acting Chair: Yes, you may. There are 10 minutes left.

Mr B. Murdoch: Of my two minutes, I will just take a minute. You bunch of socialist crap. It is the inmates running the asylum. That is what it is. The inmates are running the province. I am going to leave this committee. Go on and do what you want. There is no democracy left, and that is it. I do not know what the hell is going on here. You guys—

The Acting Chair: Mr Murdoch, please.

Interjection: Take your ball and go home.

The Acting Chair: We have about 20 minutes left, but the party that presented the 123—I do not know whether that means—

Clerk of the Committee: It is still an item before the committee now.

The Acting Chair: If there are further comments for the record, it has been declared by the clerk that we may proceed.

Mr Sorbara: We see it is the same old Tory party, as well. They also act in unison and walk out in unison. It is really too bad that it has degenerated to this extent.

It is too bad, as well, that at least one or two New Democratic Party members of this committee were not able to break ranks and simply support the people of Arthur on this motion.

I reiterate that the only issue here is one of resources to maintain these offices. This is not macroeconomics or new fiscal policy that would somehow put the Treasurer's budget out of whack. We are talking about perhaps $750,000, $1 million or $1.5 million.

Mr Abel: You have to start somewhere.

Mr Sorbara: My friend Mr Abel says you have to start somewhere. Unfortunately, you are starting at exactly the wrong place. You are starting, unfortunately, where every government seems to want to start when it gets a passion for fiscal restraint—and it happens to every government. We thought there was going to be some freshness from the NDP, but every single government, when it gets enthusiastic about fiscal restraint, starts in small-town Ontario with fundamental services.

Do you not remember Frank Miller was going to close all the little hospitals, and your party and your leaders in opposition—I guess it was Stephen Lewis at that time—fought like the dickens? They said, "If there's need for fiscal restraint, why do you always start in small-town Ontario with fundamental services?" You know why? Because they are vulnerable. They are easy pickings. They can be nipped off without the kind of brutal political pressur that no government wants to sustain.

Twenty years ago it was Frank Miller and small hospitals He said: "We're going to close small hospitals because"—you could almost find the words if you reviewed Hansar today, words that are coming now from the governmen members, the Tory members on the government side—"this will be more efficient. We will deliver services mor expeditiously." Those were the words the Tories use when they wanted to close small hospitals in small communities all around the province.

The reason you see it coming up again is that you have basically the same culture in the Ontario civil service now as you did then. These are not bad people. These are people who are trying to obey some sort of new enthusiasm for fiscal responsibility in a New Democratic Party government which is having a terrible time establishing priorities. If you wanted to be a new New Democratic Party, you would have started from some different place, not small-town Ontario and not with fundamental services. You would have looked for new opportunities.

I will just give you one example of what you could have done. You could have abandoned your Sunday shopping bill. Do you know why? Because nobody cares any more whether or not I go out and buy a toaster oven on Sunday. We had a month of public hearings and most people who came said, "We think maybe we should just make up our own minds whether or not we open up our stores or whether or not we shop on Sunday." We could have saved millions. Do you know how much we spend on police forces, paying policemen to come into stores on Sunday and measure them?

1120

Mr Abel: On a point of order, Madam Chair: Mr Sorbara is not talking about the 123. He is giving us a big, long sermon on everything but the 123.

The Acting Chair: Would you please sum up, Mr Sorbara?

Mr Sorbara: I am just arguing by way of example. I am talking about closing small registry offices in small communities. I am trying to argue that you are making the same mistake as Frank Miller made. Do you not understand that? If you want to be a new government, look at some new areas. We could save several million dollars if we just said, "Whoever wants to shop on Sunday, go shop on Sunday." We could have saved several million dollars if we had used a little bit of restraint with the civil service wage package, when everyone else was feeling the restraint. But this is classic Toryism.

It is so ironic that the Tories walk out. This is the greatest irony, that they just abandoned the committee. Sure, they abandon the committee because the television cameras are outside and it is great public relations and they are going to get the stories. The truth is, the bad old Tory government is still in power. Take it out on small communities, which have much less political power to affect results in the government, Frank Miller's strategy. Do you not understand it? Do you not see it? In opposition you used to champion the cause of small-town Ontario and the

more vulnerable. Why do we not close the big registry office here downtown and establish a number of small registry offices around Metro? Maybe that would be more efficient than renting $100-a-square-foot space in downtown Toronto.

Think about it. Think of what you have been tricked into. You have to realize that this happens, and when you are in government it happens all too quickly. That is why you should have used this 123 to put enormous pressure on the minister and Ross McClellan, who seems to be running the bloody government, to say, "Don't do this, Ross, because we'll bleed in small-town Ontario."

Remember what happened to Frank Miller. This will not go away. The 123 is not going to do all that much, but this issue will not go away because when you pick on small-town Ontario, you pick on the real Ontario. You should not have done it. You should have just said: "No, we're not going to be like the Tories were in the bad old Tory times. We're going to take a different approach to government." You could use this 123 to say to your political masters: "Gee, we're getting beat up in there. Why don't we just do something about this? Why don't we reverse our position?"

There is some class in reversing positions. I think Bob Rae has given it a good name. Automobile insurance, congratulations. Well done.

Mr Dadamo: You are straining a little bit.

Mr Sorbara: Madam Chair, I am arguing that these folks reversed their position on this, and they use a 123 to reverse the position. This is just a tool, like every other legislative hearing. It is a tool to try to affect the outcome of public policy. So where do we sit? It is made available to you. Most backbenchers, I should tell you, are really opposition members. You will find that out as this first and last term of your government transpires and the time passes.

Mr Abel: In your dreams, Greg.

Mr Sorbara: Government backbenchers are opposition members because government decisions, cabinet decisions, Ross McClellan decisions, Bob Rae decisions, affect you in the very same way they affect us. More important, they affect small-town Ontario. You are elected from small-town Ontario, really, because you are elected by the real people of Ontario. So stick up for them. All they want is a registry office, not a big deal. Give it to them. They deserve it. They have had it.

The Acting Chair: Mr Sorbara, I would like to remind you that the committee only has three more minutes to meet and I have one more speaker.

Mr Sorbara: I do not think the government members have anything more to say, but that is the end of my comments, Madam Chair.

Mr Abel: Sifting through the rhetoric, I take it that you are accusing us—

Mr Sorbara: It is not rhetoric, it is a plea.

Mr Abel: —of dumping on rural Ontario. That, sir, is the farthest thing from the truth.

Mr Sorbara: I say you are abandoning them.

Mr Abel: No, sir, we are not abandoning them.

Mr Sorbara: You are closing down the registry offices.

Mr Abel: Thirty per cent of the remaining registry offices are in rural Ontario, and they only account for 8% of the workload.

Mr Sorbara: Thank you, Frank.

Mr Abel: Now explain that.

Mr Sorbara: I do not have the floor. I am not about to explain government policy. I used to do that and I do not have to do that any more.

Mr Abel: I am not asking you to explain government policy. Those are the figures, so do not accuse us of dumping on rural Ontario.

Mr Sorbara: All I want to tell you is that Frank Miller had figures as well. The system is designed to produce those figures. You can get any figures you want. You can get figures that say this is going to save the government $1 million or this is going to cost the government $1 million. It is just what you put in them. Do not make the mistake of believing all the figures that come out of the Ontario public service. Gee, you guys are aging more quickly than—I do not have the right metaphor; you are just aging.

Mr Abel: I bet I'm getting greyer.

Mr Sorbara: Yes, you are.

Ms Harrington: I would like to ask on the record if it would have been possible for us to have received these reports in the House yesterday, the day before the committee's meeting. Would it have been possible for us to have received them in the House, had them delivered to us?

The Acting Chair: I am sorry, are you talking about the minority reports that are in this folder?

Ms Harrington: Yes.

The Acting Chair: What are you requesting, Ms Harrington?

Ms Harrington: Would it have been possible for us to have had these delivered to our desks in the House yesterday?

The Acting Chair: I can only ask the clerk.

Clerk of the Committee: I should apologize to the committee for that. Part of the problem was that I had them ready to deliver to the House yesterday, but there was some confusion from every caucus about who in fact would be attending this committee this morning, so I did not really know whom to deliver them to.

Ms Harrington: I understand. If this situation arises again, it would be very helpful to get them just the day before.

Mr Sorbara: Could we have a pause in the action, Madam Chair?

The Acting Chair: The time is up. We have about 30 seconds.

Mr Sorbara: Madam Chair, could I just table the report on behalf of my colleagues the Liberal members in those last 30 seconds? I will not go into the details of the report. Suffice it to say that the recommendations are—

The Acting Chair: I think the time is up.

Mr Sorbara: I will table it in the last second then. I table the minority report of the Liberal members for the committee.

Mr Fallis: Madam Chair, it is an unusual request to ask for the floor for five minutes. I do not think the system of justice would come crashing down if I asked for it and you were to grant it. The time is up anyway.

The Acting Chair: Sir, I could ask for unanimous consent. Identify yourself first, though, before I do that.

Mr Fallis: My name is Peter Fallis. I appeared before the committee on July 30.

The Acting Chair: All right. May I have unanimous consent to hear Mr Fallis for five minutes?

Agreed to.

PETER FALLIS

Mr Fallis: I am here in very troubled circumstances. I have listened to the debate this morning. I do not have political partisanship; I am not a member of any party. I am here today as the ghost of Arthur. The government hung us on Friday and I am here to hear why we should hang or not hang on Thursday of the following week. It is a sad comment on the system of justice of this province when the very government that is holding hearings into the process allows the executioner to execute the victim before the hearing as to whether he or she should be hung is held. That is what has happened.

Second, this government has indicated that there is absolutely no association of the reason for closure with automation, with Teranet and Polaris. That statement was made in the House in answer to the question by Mr Arnott and it was made last week by the honourable minister to Mr Tilson. The minister indicated to the House that there is absolutely no association with the automation process, that it was not a reason for closure.

The assistant deputy minister told this committee on July 29—it is in the Hansard—that there is no association whatsoever. I was present and listened to the presentation of a crown lawyer, an officer of the Attorney General, who made a presentation to the court in front of Mr Justice O'Driscoll and indicated to the court that it was a reason for closure. That has not been stated here today, but I think it has to be stated on the record that the statement was made. It is an outrageous position when you have two different people saying two different things to two different bodies. If the court has relied on it, then it has been misinformed; if the House has relied on it—one or the other has to be wrong, because they cannot say diametrically opposed things and both be right.

The other thing is that I asked the Chair via letter—and the clerk of the committee has it; it was faxed here on August 2—to investigate the disappearance of 100 years of instruments from the Durham registry office. The Chair unfortunately, and I am saying this on behalf of the coalition which I represented, never responded in writing of any sort to myself or my committee as a complainant as to where those instruments went. They have disappeared. It is against the law to remove instruments. There has been no response whatsoever by the Chair of this committee to that request. In addition, that removal was effected by the—

The Acting Chair: Mr Fallis, I think we will have the clerk investigate and discuss it. As you know, I am Acting Chair.

Mr Fallis: I realize that.

The Acting Chair: I would like that to be clarified, so I will instruct the clerk to clarify with the Chair and trace your letter.

Mr Fallis: The letter was forwarded by the clerk with a copy of the submissions that Mr McNaught did, so I know they have it. It is there and I have 25 copies if you want it. They are right here.

The Acting Chair: I will ask the clerk to investigate.

Mr Fallis: The other thing is, I would advise the committee that my information is that the removal was authorized by Mr Arnie Warner, who is the regional manager for a series of registry offices. He asked that the instruments be removed on that particular day and engaged a member of the Guelph registry and a member of the Durham registry to effect the removal to Owen Sound.

That same person removed from the Arthur registry office an antique desk that belonged to the county and later a complaint of theft was made to the Ontario Provincial Police. The OPP challenged him and he caused the desk to be returned last Thursday to the office. This is the same individual who has caused these documents to be removed. I want to be on the record as stating that. This is the ministry. Mr Murdoch referred to it as "the inmates are running the asylum," and that is the perception we have of the problem. It is a very serious problem.

I realize we are beyond the 12-hour period. I do not know where you go from here. You do not have enough members to form a judgement. All I know is, I am here as the ghost of Arthur to say you killed us on Monday. I am here to say, damn it, you have a last opportunity to do something about it. There are other registry offices.

I hear today that they have closed Perth without an ounce of consultation with the lawyers in Perth. That is a great recommendation for this government to make—from Ms Harrington, whom I had very good feelings about in the hearing before because she was very compassionate in her outside conversations with me. For this government to be closing yet another registry office without any consultation, closing by press release today, this morning, outside this committee, another registry office—it is not that they are reopening one, they are closing another. That is exactly what is happening.

I think this is a sad comment. It is a sad day for democracy in this province. It is a sad day for the Legislature when the government treats this committee with such contempt. It is a sad day when the officials of the government take things out of the registry offices, take a desk, take all the instruments, without accounting to anybody. This committee has been asked to investigate that and has done nothing. What do we do?

The Acting Chair: Mr Fallis, your time is up. I will not be able to have any more input. The committee is adjourned until the call of the Chair. Thank you all very much.

The committee adjourned at 1133.

CONTENTS

Thursday 10 October 1991

Closure of registry offices G-1641
Peter Fallis G-1652

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
Abel, Donald (Wentworth North NDP)
Bisson, Gilles (Cochrane South NDP)
Drainville, Dennis (Victoria-Haliburton NDP)
Harrington, Margaret H. (Niagara Falls NDP)
Marchese, Rosario (Fort York NDP)
Mammoliti, George (Yorkview NDP)
Murdoch, Bill (Grey PC)
O'Neill, Yvonne (Ottawa-Rideau L)
Scott, Ian G. (St George-St. David L)
Turnbull, David (York Mills PC)

Substitutions:
Arnott, Ted (Wellington PC) for Mr Turnbull
Dadamo, George (Windsor-Sandwich NDP) for Mr Mammoliti
Hansen, Ron (Lincoln NDP) for Mr Bisson
Mahoney, Steven W. (Mississauga West L) for Mr Mancini
Poole, Dianne (Eglinton L) for Mr Scott
Sorbara, Gregory S. (York Centre L) for Mr Brown

Also taking part:
Jordan, Leo (Lanark-Renfrew PC)
Tilson, David (Dufferin-Peel PC)
Villeneuve, Noble (S-D-G & East Grenville PC)

Clerk: Deller, Deborah

Staff: McNaught, Andrew, Research Officer, Legislative Research Service

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Remarks by ministry solicitor

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Première session, 35e législature

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Clerk: Deborah Deller

Président : Remo Mancini
Greffière : Deborah Deller

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325–7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 17 October 1991

The committee met at 1008 in room 151.

REMARKS BY MINISTRY SOLICITOR

The Chair: As was outlined in the notices all members received yesterday, the meeting has been called by me at the request of the Progressive Conservative caucus, which has a number of issues it wishes to bring forward to the committee.

Concurrent with the request, I received a number of faxed documents, dated October 15, from the Coalition Against the Closing of the Registry Offices. I received a second set of faxed documents and one very lengthy letter of more than four pages dated October 16 and signed by Guildford W. Deverell. I have made those available to every member of the committee this morning, which was the first opportunity to do so.

I believe Mr Tilson would like to address the committee.

Mr Tilson: Thank you, Mr Chair. The reason I requested that you convene this meeting was as a result of the comments made by the Speaker of this House in response to my rising in the House on a question of personal privilege. The gist of his response was that this committee was dealing with the matter. I think he said that in response to the fact that you had ordered a transcript of the court proceeding. I inquired of the clerk of the committee whether a transcript was indeed available, whether it was forthcoming, and I was informed that a transcript was not available. It therefore seemed to me that if a transcript was not available we should probably wait until it is, which could be some time.

Since a transcript is not available, and since the integrity of the entire committee process is being challenged by a solicitor representing or acting on behalf of the Ministry of Consumer and Commercial Relations—I assume she is retained by the Attorney General's department—and since allegations have been submitted, this committee should deal with these matters forthwith.

Aside from my personal rights as a question of privilege, which I can raise in the committee and which I am indeed raising, I am surprised that members of the government side of the committee, with the exception of Mr Drainville, are not more concerned with the allegations that have been made. So far the only facts I have presented to this committee are letters from solicitor Deverell and solicitor Fallis, which you now have before you.

Upon hearing that there was no transcript available, I telephoned the reporter, Tom Claridge, to hear his side of it. He repeated to me that it was his impression that solicitor Haberman made a comment that if a report from committee were to go against government policy, the government side of that committee would never allow it to go to the House. He informed me that at the break, after these submissions were made, he approached the solicitor and asked: "What if a government member were in a riding where a registry office was being closed. Would that member join with the committee members and speak out against the position that was being taken by the minority side of the committee?" Her answer was simply a smile. In other words, the implication was made clear to him, again reiterating her position, that the government side of a committee would never under any circumstances allow a committee report to be made to the House which would go against government policy.

Ms Harrington: Mr Chair, on a point of order: Certainly what Mr Tilson is saying is a repetition of what we heard last week. It is obviously a personal opinion of someone who is a solicitor and it is up to us to check into that. I feel that we, as a government, should. But it is very clearly a personal opinion, what this person thinks. Those kinds of opinions are given around this table and everywhere else very often. I do not understand at this point why we are here today. Would you please make it clear, Mr Tilson, why we are here today?

Mr Tilson: Mr Chair, if you will give me a chance, I will proceed with that. That is exactly what I am attempting to do. I have gone further than I did when I last appeared at this committee, which was simply to read points that were made in two solicitors' letters. You now have those letters.

Ms Harrington: Certainly we needed them yesterday if we were to be able to read them by this time. That is clear.

Mr Tilson: I will deal with that, if you wish, as well.

Mr Marchese: Please do.

Mr Tilson: Which issue do you wish me to proceed with, Mr Chair?

Mr Mammoliti: Stop wasting time and deal with them.

The Chair: Order, please.

Mr Tilson: We are prepared to speak on any of the issues raised by the government members, Mr Chair.

The Chair: I believe you should have the opportunity to make your case. We will then have the opportunity to hear responses to what you say.

Mr Tilson: With respect to these very serious allegations made in a court of law by a solicitor acting on behalf of the government, challenging the integrity of this committee, challenging the fact as to why members of the public should even come to our public meetings to make representations on particular issues, it goes beyond section 123. It goes into every type of public hearing this Legislature ever holds.

If a committee is going to make a recommendation to the Legislature that is going to go against government policy,

we have the uncontradicted fact at this time, made by a solicitor acting on behalf of the Attorney General's ministry and the Ministry of Consumer and Commercial Relations, that the whole process is a sham, that a report made by the committee, if it was going to contravene the policy of the government, may possibly not even reach the House.

These allegations have been made in these letters by solicitors. If one is saying they are lying, that is a serious allegation. But now I have added a further fact. As a result of there not being a transcript available, and that is unfortunate, I have contacted Mr Claridge, the reporter for the Globe and Mail who is reporting on that hearing. Mr Claridge reiterated the position I have just related to you.

With respect to the response by Mrs Harrington as to why we are doing this now, we are doing this now because I believe I have the right of my personal privilege to appear at the earliest opportunity, and I so requested. Why would I come to a public committee meeting when the whole process is a sham, as relayed by a solicitor acting on behalf of the government? Why would I do that? I have the right and the obligation to attend as soon as possible to make these submissions to this committee.

You, Mr Chair, have been challenged. As I indicated in my remarks last week, you have been challenged as conducting a committee that is essentially a sham. I believe this committee is obligated to pursue these very serious allegations, made not just from one source but from an independent source, the independent source being Mr Claridge, who has nothing to win or lose. He made those to me, but I think those comments should be made to this committee and this committee should determine whether or not the process is indeed a sham and whether these charges should be pursued.

If you are going to sit here and allow these allegations to remain over our head, in all honesty I will have a great deal of difficulty asking people from my constituency to attend committee hearings. I cannot believe you would not have the same feeling yourself. Why would you ask people to come to Queen's Park or to cities around this province to assist us in formulating policy? This committee spent considerable time on housing. Why would we even have the housing hearings if that is in fact the process, if that understanding is to remain?

These serious allegations must be dealt with immediately and either dispelled and proven to be false. If they are true, then what are we as a committee going to do about it? What are you as Chair going to do about it? I challenge the committee and I challenge you as Chair.

1020

The Chair: We have a list. On the list we have Mr Drainville, Mrs Harrington and Mr Mammoliti.

Mr Drainville: There are a couple of things I want to address myself to. The first thing is the question of privilege. I believe Mr Tilson has raised this issue in the House. I believe he raised it at that time. I do not think he was given a favorable ruling in that instance, and I think to reraise the issue of privilege of a member here in this committee is not particularly acceptable. You raised it quite appropriately with the Speaker of the House. The Speaker of the House has indicated his views on the subject and I think that is where it lies.

As to the conduct of the committee being just a sham, I want to say that at the last meeting when we met together as a committee, I indicated my total agreement with Mr Tilson that for anyone to state that this committee had no significance was reprehensible and unacceptable. I think every member of this side of the committee would agree that is unacceptable.

We are in a situation in which there is no record of that being said. We also are on record as indicating that if it was said, it was totally unacceptable. To cast aspersions on everything the committee does because of that situation, no matter how ill-intentioned or uninformed the point of view put forward at that time, is to me unacceptable.

I really believe, and I say this with respect for Mr Tilson, that this is an attempt to get us into political wranglings which are absolutely not going to be to the benefit of the committee. We are putting the Chair in an untenable situation by challenging the Chair and indicating that somehow there is going to be some question as to his validity as a Chair under these circumstances. That brings us into more conflict than I think is acceptable in this committee, and I do not accept it.

Lastly, I have to challenge the honourable member for asking why he should bring someone to this committee, why we should have any hearings. As I recall, at the last meeting Mr Tilson indicated that he would have no part of these hearings if we proceeded to vote in the way we intended to vote on the issue concerning registry offices, that he would not even be here for any more 123s. I remember his words very distinctly. Perhaps he said that in the heat of the moment; I do not know. All I can say is that we are in a situation which is, I believe, politically motivated, not particularly edifying to this committee and not helpful in the process. I dissent totally from a continued wrangling over what I agree with him is an ill-advised, stupid, unacceptable remark that was made by somebody.

Ms Harrington: Mr Tilson has made his case very clear. Therefore, I think we obviously need to waste no more time on this, but I want to just make a couple of remarks.

First, with regard to this allegation against the committee, the committee process, the Chair and every one of us, I would like to point out that during our travels this summer and previous to that, many allegations were made about this committee, about who was on it, about the process. People are entitled to make whatever allegations they want. That is part of their right, is it not, to free speech, to come here to this committee and say whatever they want to say? That has been extremely helpful. For instance, many amendments are being made on rent control because of the input made to this committee. Therefore, this committee obviously has a job to do and a function. This person you are talking about has a right to his opinion.

On the other point you raised, about whether this committee has ever or will ever make a report which is for or against the position of the ministry or the government, all I can say to you is that we will have to wait and see. You, or

any other solicitor, or anybody else, are not going to make assumptions as to the future of this committee.

Mr Mammoliti: I want to bring up four things. The first is that this is the first time I have received a copy of this letter dated October 16. Yesterday in the House I approached both the Chair and Mr Tilson and I got the impression that Mr Tilson had received this letter prior to today.

Mr Tilson: I read it to you last week.

Mr Mammoliti: It is dated yesterday, October 16. How could you possibly have had a copy last week?

Mr Tilson: I read the letter of the solicitors last week.

Mr Mammoliti: There is a point, then. How could Mr Tilson possibly feel anything towards this committee if he did not share this letter with us last week? If he had a copy of this letter last week or if he knew of this letter last week, why did he not make this clear? Why did he not make a copy of this letter for everybody on the committee?

Mr Tilson: I read the one of October 7.

Mr Mammoliti: Why is it dated October 16?

The Chair: Can I just clarify things?

Mr Mammoliti: I am referring to the letter of October 16.

Mrs Y. O'Neill: Yes, but the one we are working with is October 7.

Mr Mammoliti: I am referring to the one of October 16. This is the first time I had a copy of this.

The Chair: The letter of October 16 was sent to me on October 16. I believe you and Mr Tilson are speaking about two different letters. I said at the initiation of this committee meeting this morning that concurrent with Mr Tilson's request, I received these letters in the office. This is the first opportunity I had to make them available to the members.

Mr Mammoliti: I am referring to the one of October 16. Mr Tilson is referring to the one dated—what is the date of that one?

The Chair: October 7.

Mr Mammoliti: There was a meeting here last Thursday. Why was this not addressed last Thursday? Why did the members of his party walk out of the committee meeting? Why did they not address it at that time? I understand they walked out of the meeting and they did not want to address anything. As far as I am concerned, today's meeting is a way of deliberately wasting our time and wasting the valuable time that I spend on Thursday mornings in my constituency with individuals who have problems.

That brings me to my next point. On behalf of the single mothers I was supposed to meet with this morning, and on behalf of the individuals who are collecting welfare and wanted my advice on particular areas, and other persons whose meetings I had to cancel, I say to Mr Tilson, these people are not very happy with you for calling this meeting. I explained the situation to them. I explained that you could have dealt with this last week and you did not and you walked out of the meeting. Now you call a meeting at the last minute.

1030

The Chair: I feel I must take some responsibility for calling the meeting. The Chair has the prerogative to call a meeting and it has been my practice to call meetings whenever requested by anyone on the committee, and if I was not available, certainly the Vice-Chair, Mr Brown, was available to substitute for me when meetings have been requested. I understand and sympathize with Mr Mammoliti's problems with a constituency day, but Parliament sits from Monday through Thursday. I just want the record to show that the request was duly made and I followed the request, as has been my practice.

Mr Bisson: I have a point of personal privilege. Hearing what the Chair just said, I do not think it is helpful to this committee that the Chair comes down in a condescending way in explaining the procedures and when we are to be in the House, from Monday to Thursday. I think we are quite aware of what our responsibilities are here, sir.

The Chair: That is not a point of order.

Mr Bisson: It is a point of personal privilege.

Mr Mammoliti: Mr Chairman, if I may continue, my point is that as far as I am concerned, we should have had some notice. Early yesterday afternoon was the first time I heard there was going to be a meeting this morning. This is the first time I have seen this letter. It is dated October 16, yesterday. If we had received it yesterday, perhaps it would have given me a chance to read it over and contemplate what I was going to talk about today. Again, I am very upset at the fact that we did not get it yesterday.

Interjections.

The Chair: Order, please. I cannot hear Mr Mammoliti. We need to be able to hear the entire discussion.

Mr Mammoliti: As I said, I have four points. I have already brought up two of them—the waste of time and the copy of the letter. The third one is the accusation by Mr Tilson that this process is a sham. Frankly, I just cannot agree with that. Actually, I take it very personally when he says the process is a sham. If it is a sham, it is the conduct of his people, the Conservative representatives who have attended here. The Liberals have certainly caused a little bit of ruckus in the past as well. Walking out on us in the middle of a vote, knowing full well that we were going to miss a plane, was absolutely ludicrous. That is a sham. Walking out last week, as far as I am concerned, was a sham. This side of the committee has never walked out.

Mr Brown: Not in this Parliament.

Mr B. Murdoch: Look at the halo over there.

Mr Tilson: Just remember all this is being recorded.

Mr Brown: Look at the wings under the jacket, George.

The Chair: Order. Mr Mammoliti has the floor.

Mr Mammoliti: When you make accusations that this is a sham, look at your own behaviour, sir.

When I hear that Mr Tilson has made phone calls to the lawyer who has made these accusations, I cannot help but

think Mr Tilson is deliberately enticing these people to say these things. That is a sham, if that is happening.

Look at the behaviour of the people sitting across from us. Even at this time they are sitting there and laughing. That is a sham.

Interjections.

The Chair: Mr Mammoliti deserves all the courtesy we have extended to every other member.

Mr Mammoliti: When we see the clowns laughing and giggling and walking out whenever they feel like it—

The Chair: Mr Mammoliti, I want to give you as much leeway as possible, but do not call your colleagues clowns.

Mr Mammoliti: I am sorry.

The Chair: Withdraw the word "clowns," Mr Mammoliti, and we will all get along a little better.

Mr Mammoliti: Mr Tilson said this was a sham. I take personal offence at that and I think I have made my point.

Mr Chairman, even though you and I have certainly had our differences in the past—again I echo the feelings of my colleague earlier—my fourth point is that I would have to stick up for you when Mr Tilson says he is challenging the Chair. Even though we have not seen eye to eye on a lot of issues, I believe you are doing your best and that you have made every attempt possible to deal fairly with every crisis. I do not agree with Mr Tilson in challenging the Chair, and on that particular note—

Interjection.

Mr Mammoliti: I heard that he challenged the Chair. That is what I heard today.

Mr Marchese: It is a challenge to the Chair, not through the Chair.

Mr Mammoliti: It is a deliberate insult to the Chair and I do not like it one bit. Let's remember that we are supposed to be a team, ladies and gentlemen, and that we are supposed to work together in harmony. When I hear you saying this is a sham, I just cannot believe it, especially after the behaviour I have seen from all of you over the last six months. That is a sham.

The Chair: We are allowing a lot of leeway in the discussion this morning. We have already spent almost 40 minutes. I think we are going to try to wrap this up within the next 20 to 30 minutes. I have on my list Mr McClelland, Mr Marchese and Mr Brown.

Mr McClelland: I really do not know where to begin. I am not in a position to impute any motives to the comments made by Mr Tilson but, for the record, my understanding was simply that the position of Chair is challenged, not you personally. Your ability to conduct meetings that would be seen and perceived by deputants before this committee to have any efficacy or meaning is called into question when there is evidence, at least on its face, to indicate that a decision was made notwithstanding any information that may be brought to the committee. That is the salient point, and I think it has important reflections with respect to the comments made by Mr Drainville and Ms Harrington.

The issue of the validity of the committee process and whether or not it is a sham is very important. I think it important that we understand the committee has not only a responsibility but also legislative authority. A committee has the power to subpoena people. It has the power collectively to intervene in people's lives and compel them to be here. There are people who come here under compulsion and there are individuals, men and women from across this province, who come willingly. In both cases they come here with the expectation and intent that they will have a fair hearing and an opportunity to put their views before this committee as an extension of the Legislative Assembly.

The committee then reports back to 130 men and women who have a responsibility to discharge the affairs of this province. We call upon people to participate in that. When people come, they have an expectation that whatever they have to offer will at least be taken into consideration. It seems reasonable to presume, on the evidence presented, that this is called into question. That is exactly the salient point of Mr Tilson's position and it needs to be explored and canvassed.

1040

A case has been made that the people who come here have a right to be assured, not only for themselves but for everybody who will be called before this committee and other committees of the Legislative Assembly, that they are not doing so in a futile manner and in an atmosphere that is absolutely pre-arranged. That is what is called into question.

The perception by the individuals who came here, who made a presentation in good faith and were then told after the fact that it did not matter, that the decision had been made and everything they said was irrelevant and had no impact in terms of the decision, calls into question not only the process but, by extension, each and every one of us in every committee we serve and the work we do. The very constituency work Mr Mammoliti talked about is also called into question by virtue of that. It is not only symbolic; it is very real to people who invest their time and energy and give willingly with the desire to have meaningful impact.

In terms of the process, I think it is important also to recognize why we are here. Mr Drainville, I understand your concern whether it should be before this committee. I remind you that it was the Speaker himself who dictated or directed. You suggested that the Speaker's view ought to be taken into consideration. With respect, I remind you that it was the Speaker who said this issue needed to be dealt with by this committee. In fact that is why we are here, at his behest and at his direction.

In terms of the timing and in terms of the process of what is taking place here, we are often called upon to be here at times that are inconvenient. Regrettably, that inconveniences other people in our ridings from time to time and arrangements have to be changed, and oft-times we are also required to deal with things we do not plan in advance.

The nature of our business is such that we are making decisions that impact people in a very meaningful way. I think we have to bear that in mind. With respect to you, Mr Mammoliti, whether or not you agree with Mr Tilson's position is, quite frankly, irrelevant. What is important is that the position be given full opportunity to be heard and to be dealt with in as objective a manner as possible.

More important, Mr Tilson is bringing a position that is not only his—that is important—but that is firmly held and firmly believed in by men and women in this province. Ultimately it is your job and mine, all of us together, to deal with that. That is why you are here and we are here. We have a job to do, and a responsibility. We have the confirmed authority to deal with that.

From time to time we have put people in a position that is very difficult for them to respond to. When we do that, we had better make absolutely sure they have every assurance that they come here with a clean slate, so to speak, that they have an opportunity to put their case here clearly and honestly, without fear of any repercussions and with the assurance that what they are doing is contributing in a meaningful way.

I recognize the difficult position you are in, Mr Chairman. You are in a position where you have a member of this committee and a member of this House who is acting in terms of his right and privileges. You have a member of this committee who is acting in terms of his responsibility to the people he represents. If the process is called into question, ultimately you as Chair, as the focus of this committee, are put in a very difficult position.

I simply ask therefore that this matter be dealt with as directed by the Speaker, and that Mr Tilson be given the fullest opportunity you can possibly find to allow him to bring forward whatever evidence is necessary so that he, and more important, the people who have the concern, can rest assured that their input is not only appreciated but valuable and meaningful.

Ms Harrington: On a point of order, Mr Chair: On the assumption we have just heard that we explore the allegation that has been made, I would like to suggest that if that is to go forward with regard to this particular solicitor's opinion, then we would need to look into at least five or six other people who have made allegations about the process of this committee.

Mr McClelland: Can I respond to that point of order?

The Chair: Very briefly.

Mr McClelland: It is an important matter. Bearing in mind the authority vested in this committee, with that goes the responsibility to respond to specific requests, specific incidents. I do not think it falls within our purview, nor is it wise, to begin to speculate about what might have happened if somebody had pursued an issue.

This is a direct response to a direct question by a member of this committee and a group of individuals he represents; it is not in the generic context you raise, and I think that is important. I agree that those issues are very significant, but this is an issue that has been brought here before for resolution. It does not therefore follow that every other potential difficulty of like kind should be canvassed at this time. We are here to deal with a specific situation.

Ms Harrington: Mr McClelland raised broader issues about this committee. Apparently we do not have transcripts for this allegation, but we have the transcripts of all the committee hearings for the past six months and there are certain things said in those that I would be referring to.

Mr Drainville: On a point of order, Mr Chair: Very respectfully, I just want to say to Mr McClelland that there is no difficulty at all with this committee taking a look at this issue, because the Speaker said we should take care of it. My objection is that it is a question of privilege. The Speaker ruled it was not a question of the privilege of a member of the House. That is the point I was trying to make, that it should be dealt with like this. That is fine.

The Chair: I will try to clarify this. I have been looking at this since yesterday and I have been discussing the matter with the clerk, who is chief adviser to our committee. It is our joint conclusion that the Speaker referred the matter back to the committee because the matter was raised as a point of privilege not by the committee but by a single member. It would have to be the conclusion of the committee that some breach of privilege took place. The committee would then have two options. We could report back to the House asking for permission to call certain witnesses and try to obtain certain documents, or we could refer the whole matter to the standing committee on the Legislative Assembly and have it do what we would want to do.

The Speaker did not accept Mr Tilson's point of privilege as a point of privilege on behalf of the committee, and that is why it was referred back to us for further discussion or conclusion or however we wanted to deal with it. That is my interpretation and that is the clerk's interpretation. If we want to have any discussion on that, maybe now is the time to do it. If not, we are going to carry on because we have a very lengthy list of speakers.

Mr Marchese: On the question of the material, just in defence of what Mr Mammoliti was saying, if we are going to have a meeting, it is very useful to get whatever material is to be distributed at the meeting in advance, particularly if it is available to you. It should be made available to us. As a matter of process, I think all members will agree with that. It will just allow us the benefit of reading the material so we are well informed before we come here. It is very difficult to read it while we are here. Whatever Mr McClelland was saying about this, I think he should reconsider that as a matter of process.

On the issue of the integrity of the committee process, Mr Tilson brought this matter to our attention the last time and he is doing so again, appropriately. Mr Drainville concurred with some of the comments Mr Tilson made about the process and whatever comments were made by the solicitor. I think Mr Drainville spoke on behalf of all the members here about the inappropriateness of those comments.

Now we have the same situation repeated. Mr Tilson brings us back to the same issue, and we have Mr Drainville repeating his agreement and saying that whatever has been said by that person is inappropriate, if it has been

said. So we are going through that discussion again in order to deal with the matter. I do not know whether this repetition is helpful, but if members feel it is useful to repeat it, I guess we will repeat it, and we repeat concurrence with some of those opinions. We have done that.

1050

I do not know what more can be done when both sides say that if indeed this has been said, it is inappropriate and those responsible should be reprimanded. We have done that. I do not know whether we need to find yet another forum or another way to communicate that disagreement with what may have been said. We agree with you.

The additional point I want to raise is that—and perhaps I am mistaken—did the minister not say that she was looking into this matter?

Mr Tilson: The minister has never spoken on this subject, to my knowledge.

Mr Marchese: The minister has not? Okay.

Mr Tilson: She has never spoken to this committee or to the House.

Mr Marchese: Okay, that is fine. I was looking for direction because I thought the question was addressed to the minister and that the minister had said she was going to look into the matter. For clarification, Mr Chair, I would like to hear it again.

Mr Tilson: I can say that I briefly met the minister in the hall—it was as brief as that—where we briefly discussed the subject. Nothing was resolved one way or the other. To my knowledge the minister has never spoken on this subject in the House, nor has she spoken to this committee. I will say that just by chance we met, out in the hall or the parking lot, and we briefly spoke.

Mr Marchese: That is fine. It was just for my own clarification.

I want to speak very briefly on the process because the member raises a question of process. I am one who agrees that processes need to be correct and the perceptions of those processes need to be a reality, and where they are not, we need to address them. I personally want to say that if that has been said by that person, those comments are inappropriate and they should not have been said. When a committee does its work, it needs to operate with the understanding that it has the power to deal with issues in a way that allows it to understand that it will be free and unhindered and not prevented by other forces—by a minister or some other person within a ministry—from doing its work. I just wanted to reiterate that in the process we need to be very clean and clear, and we have already agreed with the member that whatever may have been said was inappropriate.

Mr Brown: I think this is a very important discussion we are having here this morning because it comes right to the basis of what we, as members of this assembly and members of committees, are about.

The difficulty here is that, according to the information we have, a solicitor representing the government has made some charges that would make us appear to be irrelevant, make us appear to be kind of some little sideshow that goes on, that the work we do here is not in the interests of anybody. I think as members we have to take offence. There have been some very thoughtful comments from all around the table. Some very good points have been made from all sides.

I think the committees are very important. I think we as individual members have very important work to do and that the public of Ontario has every right to believe that when they come before this committee they will be heard and their opinions, though not necessarily agreed with, will be taken into account, and that we as members listen to them, evaluate their points of view and decide on the basis of the arguments we have heard before us and other sources what is appropriate. I think the people have a right to expect this. The people have a right to expect that members may change their minds on the basis of the information presented to them.

As I look at this letter, where it alleges that the solicitor representing the government says the general government committee is of "no significance," that the general government committee is really "just a way of creating political heat," that the general government committee is composed of six members from the NDP and five from the other two parties and that all the NDP members could be absolutely counted on to stick to the government's position, I think if that is the case, it is totally offensive. The people who should be most offended are the government members, who have just been told by a government solicitor that they are trained seals. I think that is really offensive, and that is what we have heard from the government members also.

The question then is, what do we do about it? I am not sure what we do about it, but I think this is an issue of enough importance that we should pursue it. I am not willing just to say, "Well, that's it, let's forget it," because this is very important. I do not say that in a partisan way. We have a new politics. We have a new reality out there. People in this province and across Canada believe that members should form their own judgements, should be accountable to them, that party lines are not as important as they used to be, that the government, in the general sense, should be far more open. We are hearing that over and over, at least I am in my constituency, and I suspect you are in yours. This is exactly the wrong signal and it is time for us to stick up for our rights as members and for our rights in committee.

Mr Chair, I think you are asking for advice. You want to know what this committee wants to do, and I am interested in how we resolve this also.

Mr Bisson: The beautiful thing about speaking a little bit later in the order is that most of the points have been made, so I will try to be as succinct as possible.

As other members of the committee have said, the points raised by Mr Tilson are fairly important. If indeed a person said the things alleged in regard to the process of this committee, I think that is not acceptable; I would have to agree with that. To make the point that the process of committee is one that does not function and somehow or other makes no difference to the process is wrong.

I know, as the members of this committee know because they have been in this business of politics for a long enough time, that when a government, be it a Conservative, Liberal or NDP, brings a bill to the House, by the time it comes out of the committee process many changes have been made. Sometimes, in fact, the bill never surfaces again if there is that much opposition to it.

When we talk about the question of party lines, the accusation is made that because you are a government member, somehow or other you are a trained seal and you have to do strictly what the government says because of your party. I think that really is an overstatement, and if it comes to that a little bit of overkill.

The reality of politics in Canada is that we run on the British parliamentary system, a system that recognizes that there are parties within that Parliament. I think all of us, let it be from the Conservative caucus, the Liberal caucus in opposition or the NDP caucus in government, at times have to make decisions as a caucus and decide to take whatever position on whatever piece of legislation or regulation that we feel strongly against or strongly for on a particular issue. That is the way the whole system proceeds.

Quite frankly, the system has served this country fairly well over the past 120-odd years. To a certain extent, we have built up a very caring society that has a lot of positive aspects for the members of that society. I really think it is because of the British parliamentary system that this happened, and also because of the party lines, quite frankly. Because a government of the day would decide to do a particular thing or not to do a particular thing, other parties would bring forward points of ideology that they were either for or against. The whole system tends to grow out of that and we tend to make better legislation for the people of this province. We should really think hard when we talk about whether we should try to bring down those party lines.

As a committee member and as a government member, I tend to agree with Mr Tilson that if what was alleged to have been said was said, it is totally unacceptable and should not have been said. But the question is, where do we go from here? I think the point has been made. I think the minister is aware. From conversations I have had with the minister about this—and it is an issue of concern to me because obviously those comments were made towards members of this committee, of which I am a member—I am fairly satisfied that the issue will be dealt with.

I would like to make a very brief point about committee information. The point has already been made, but I would just like to bring it back again, and I realize that the Chair has difficulty sometimes because there are many things that happen in the life of the Chair, many things to oversee in regards to a committee. Being Vice-Chair of another committee and having chaired for a while, I understand the limits that are put on your time to be able to deal quickly with certain issues.

On the question of the documentation that I, along with the rest of the members of this committee from all sides, received this morning, I only wish it could have been provided to me earlier. I feel my privileges as a member have been somewhat—I would not say taken away; I do not want to put it in that strong a term. But if I am expected to come here as a member to give a useful contribution to this committee in order to try to resolve issues such as this, it would be very useful to have this information earlier so that I could sit down as a member, go through it and try to balance it off against some of the understandings I have in dealing with the ministry and dealing with the minister on this particular issue.

1100

Going through it today, I am not in agreement with everything I have seen in this documentation. I think it is a little bit of speculation on the part of the people who wrote it. What was said and inferred in a smile is a heck of a lot different from what is said in an actual court transcript. From what I understand, there is a little bit of a grey area as to what was said there.

In closing, I basically agree with Mr Tilson. I think what was said was wrong, if it was said at all. I am satisfied that at the end of the day the ministry will deal with this issue, that if this person actually did what this person is accused of, it will be dealt with. I think this committee has a lot of other business to deal with. There are pressing issues that the people of Ontario want us to deal with, and we should move on.

Mr B. Murdoch: This meeting today is not about personalities or things like that. It is about the integrity of this committee. We have been challenged. I do not believe the ministry is going to look into it; I think this committee has to do this. We were told by the Speaker of the House that this is a committee problem, and I think that is why we are here today—to discuss specifically the challenge to this committee, not whether we got this today or whether we got it yesterday. Both parties sometimes leave things on each other's desks the day we have a meeting. I remember when we first came in last week, that was the first time I had seen the position of the NDP party, when it was sitting on my desk. It happens to everybody. I do not think we need to get into all this kind of stuff.

Mr Bisson: Excuse me. Could you just repeat that? I did not quite catch that.

Mr B. Murdoch: The first time I saw your position on the hearings we had about registry offices was last week when it was sitting on my desk when I got here. We all do this, and sometimes we do not get it ahead of time so as to do it. That is understandable.

We are not here about things like that. We are here because the integrity of this committee has been challenged. I think we have to deal with that. We may have a hearing about it and subpoena people who supposedly said these things. Maybe that is what we are going to have to do. That is why we are here. We are not here to talk about whether you agree with me or whether I agree with you on different things. None of us wanted things to be said about this committee. I think that is why we are here and that is what we have to deal with today, whether we are just going to let this go aside.

As Ms Harrington said, there are many other allegations too. Maybe we should look at these allegations. I think the people of Ontario want these committees to work,

and we certainly cannot work with a cloud sitting over us. I cannot feel good about it with a cloud sitting over us. I made those remarks quite clear, I think.

I think we are going to have to deal with this situation that has been brought to our attention. It is not about the registry closings. That has been dealt with. It is about why this committee is here. And what about the next issue to come before the committee? Are we going to have the same cloud sitting over us on the next issue? I would like to see us do something in this regard, and whether it is a hearing of our own here or not, I am open for suggestions.

Mrs Y. O'Neill: I too see this as a very serious matter and certainly now, having the documentation before me, I see it as even a more serious matter. I think the minister has to come before this committee and explain and certainly verify for us that there has been some investigation.

I find that we are talking here about things we do not have a transcript for, but we certainly are dealing with professional people, people who have credentials, whether they are highly respected lawyers, solicitors or journalists. I read in this documentation that we have had today not what was read by my colleagues, but that on the date of the hearings, "The judge was prepared to recess to allow counsel to obtain instructions, but as indicated above, instructions had already been sought and given in the negative."

These are the kinds of symbols we are talking about today: What the solicitor actually said and the actions that were taken on that day by this solicitor. The solicitor has indicated to several people, including other witnesses and journalists, that she was indeed satisfied that she had canvassed all these matters with the government before her submissions and relayed its positions to the court. So not just what she said, but the way in which the process of her presentation was developed as a crown lawyer, certainly leaves a lot to be judged.

The committee structure is one where we, as legislators, can deal with the persons we are truly here to serve. The persons we are here to serve cannot walk on to the floor of the Legislature to talk to us. There we talk to each other; here we are given an opportunity over and over, both at Queen's Park and across this province, to talk to people where they are, and to listen to their concerns.

The process is totally in question here, particularly the timing and the fact that all of this, whether it was court hearings or time lines that seemed to be firm and written in stone, was taking place while people were presenting their cases. I feel very strongly that the minister has to answer the question of why that happened. What was the reason for the acceleration? This particular process has been examined and considered by three successive governments over a period of more than 10 years. I cannot understand the need for hurry.

My concerns are grave because not just this committee but every committee of the Legislature is being brought into question when people come before us and feel that it is somewhat of a charade and that decisions are made before they even make their presentations. There is no attempt to change time lines. There is no attempt to obtain their witnessing as real evidence of a change in direction.

I certainly request that we pursue this. My suggestion is that we ask the minister to come before us and, if possible, bring this solicitor with her. I feel we have every right to know what is being said in venues other than this about the work of our legislative committees.

Mr Mammoliti: I will not take long. First of all, let me say one thing. I apologize for perhaps being a little aggressive earlier. I get emotional when I have to cancel meetings and perhaps put off some of the concerns in my riding. That is one of the reasons I was emotional. I guess Mr McClelland really did not understand what I was trying to say. I understand this is an important issue. That is not what my concern was earlier. My concern was that I think we could have had this discussion last week. The information was there last week and Mr Tilson knew about it. Instead of certain individuals walking out last week, they could have extended this conversation.

I take pride in what I do. I certainly like to prioritize my time. When I see particular discussions taking place a week late, or perhaps two weeks late, I get emotional. That is when I have to bring out that frustration. I just wanted to make that clear to the committee. I think I was somewhat misunderstood the first time.

The Chair: Thank you. Mr Villeneuve and Mr Tilson, and I am cutting the list off there.

Mr Villeneuve: Mr Chairman, when were you made aware of the government report tabled last Thursday? When were you made aware of it as Chair of this committee?

The Chair: Just one second. We will have to check the clerk's records, but it could have been the day before.

Mr Villeneuve: It could have been the day before, thank you. Some people were saying we could have extended and discussed more last week. All I can tell you is there was a report on this very desk that we saw for the first time at 10 o'clock last Thursday morning. Simultaneously, people from the Ministry of Consumer and Commercial Relations were in the registry office in Perth telling them they had to move. What sort of credibility does that give this committee, when we had not seen what the government report was? Yet it was in the hands of the ministry and, while we sat here seeing that report for the first time, ministry officials were in Perth saying, "Look, we've decided to switch. We're now keeping Almonte open and we're shutting down Perth."

1110

My colleague the member for Lanark-Renfrew received a fax from a solicitor in Perth while we sat here, telling him what was happening. If that is not undermining committee work, I do not know what undermining committee work is. I am very sorry, but that is what happened. These are the facts. If this government or the government members on this committee saw fit to put out their little report and present it to the committee last Thursday morning, even as ministry officials were in the process of doing what six members of this committee, without consultation and unilaterally, decided should be done, I cannot accept that.

We speak of legislation going in with many amendments. This was not legislation. This was a decision made

by a minister somewhere to shut down some registry offices that had been open, in the case of my constituency, for almost 200 years. We as the opposition can choose only one subject a year under section 123. We saw enough importance in this one to use our once-a-year opportunity.

I must go back to the member for Kitchener, the man who is now the Minister of Energy, who said, "We have the big hammer. You are bringing in a bunch of flacks from your ridings." The people who came to this committee deserve an apology from that member. I do not care what anyone says, he sat on that side of the committee room and laughed at people who came here in good faith intending to be listened to. This is what has come out of this charade. I am totally aghast at the system and the situation. We have one opportunity a year and we were laughed at. There is something wrong.

Mr Tilson: The Speaker has ruled as a result of my raising the issue in the House last week. The ruling was made, I believe, on Tuesday:

"This is clearly a matter which is before the standing committee on general government and ought to be settled in the committee, not in the House. After considering the court transcripts, the committee may make a report to the House on matters which affect its proceedings. There being no report from the committee, the matter may not be raised as a question of privilege in the House."

That was the Speaker's ruling and the clerk has delivered that to all of us. In other words, the Speaker is saying this committee may investigate the matter.

The Chair: What the Speaker is saying, if I may interject, is that the committee may make a report to the Legislature that the committee process has in some way been breached.

Mr Tilson: You are quite right. It is unfortunate that there is not a transcript. Because there is not a transcript, we have yet to hear from the minister and we have yet to hear from the solicitor. To be fair to the solicitor, did she even make these statements? The reason I raised it is that I accept the word of two solicitors who said they were made. I accept the word of journalist Claridge that a statement was made. But to be fair to her, she may not have made them. I think we should hear from her.

More important was the issue raised, I believe, by Mrs O'Neill. It was referred to in two sections of the various pieces of correspondence before us. One is the October 16 letter addressed to you as Chair from Mr Deverell. On page 3 he says:

"Mr Justice O'Driscoll asked counsel for the ministry whether she would consider seeking instructions on the matter of whether the ministry was prepared to postpone the Arthur closing to allow time for him to work on the decision. The answer to the judge was that it had been anticipated that this very situation might arise, and counsel advised that her instructions were that the ministry would not agree to postpone the closing of the Arthur registry office for that reason. The judge was prepared to recess to allow counsel to obtain instructions but as indicated above, instructions had already been sought and given in the negative."

Solicitors do not make things up. There are a number of solicitors in this very room. They do not just create statements; they receive instructions. According to Mr Deverell, who was present at the hearing, solicitor Joan Haberman received instructions from the minister as to her submissions before Mr Justice O'Driscoll. So the minister must come, as Mrs O'Neill has stated, and explain herself to this committee.

I believe Ms Haberman, as the solicitor who made these representations on behalf of the government of Ontario, should come and explain herself. Did the minister make these statements? If the Minister of Consumer and Commercial Relations instructed solicitor Haberman to make those comments to Mr Justice O'Driscoll, then she has some explaining to do with regard to interfering in the committee process in this government.

The other statement on this point was, I believe, from Mr Fallis in a letter of October 15 to you, Mr Chair. On page 2, referring to Mr Claridge being the reporter for the Globe and Mail, he states:

"Mr Claridge went on to further indicate that he was so concerned with the crown's submissions that he challenged the crown's lawyer at a break in the proceedings to see whether or not these were just her personal submissions and not that of the government. He indicated that he was indeed satisfied that she had canvassed all matters with the government before her submissions and relayed their position to the court."

Solicitor Haberman was indeed repeating the instructions she had received from the minister, a minister of this government.

It has gone beyond the issue of closing registry offices. It goes to the attitude of the government members. Mr Villeneuve has referred to the conduct of the now Minister of Energy and his performance at these hearings. We heard the words of the minister herself in the House in response to a question of mine as to whether she would consider delaying the proceedings until this committee had made its report.

We have heard facts now given to us that the Perth registry office was being closed on the very day the government side made its report to this House. We had not even heard of it. We had not even heard that the Perth office was going to be closed. The only way we heard was via a piece of paper that we received on our desk as we were sitting down last Thursday morning, and a fax that came from Mr Jordan's office.

One of the members has asked, "What we are going to do with it?" Mr Bisson or Mr Marchese, I do not know which, said that the minister will deal with this. That is not enough. I submit she is the cause of this. She has an obligation to come and explain herself to this committee. The idea that we are going around in circles, that I am saying one thing and Mr Drainville and Mr Bisson are saying that it is wrong, is not good enough. What are we going to do with it? If we all agree that this is wrong—and for once we agree on something—then what is this committee going to do with it? Are we going to turn the other cheek and let that cheek be slapped as well?

I wish to make a motion to this committee and if there is further debate or discussion, I would like to make it after that person has spoken.

The Chair: We have had quite a bit of time for debate, almost one hour and 15 minutes actually.

1120

Mrs Y. O'Neill: Well, this is an important matter.

The Chair: I understand the reason we have had such lengthy debate, as Mrs O'Neill has reminded me, is that it is such an important matter.

I believe I have given all sides a fair opportunity to put forward their views. I understand that both Mr Tilson and Mr Drainville wish to make motions. I was informed by Mr Drainville some time ago that he wished to make a motion. Mr Drainville will be allowed to make his motion, and we will have discussion on the motion. Then Mr Tilson will be allowed to make his motion, and we will have discussion on that.

Mr Drainville: As you said, we have expended a fair amount of time. It is an important issue.

The Chair: I think will get right to the motion.

Mr Drainville: That is fine.

The Chair: Mr Drainville has a motion. The clerk is going to make copies of the motion. Can I please have everyone's attention because I would like to start debate on this motion immediately. I would like to read the motion into the record and the clerk will then make copies of it for all of us.

Mr Drainville moves that, whereas certain remarks have been alleged by a lawyer representing the Ministry of Consumer and Commercial Relations which, if such comments were in fact made, would be considered totally unacceptable to all members of the committee, the committee recommend to the Minister of Consumer and Commercial Relations that she investigate the truth of these allegations and, if they are proven to be true, that appropriate disciplinary action be taken to correct this unacceptable public utterance.

Mr Drainville, you are allowed to speak first on your motion.

Mr Drainville: I am not going to take a lot of the committee's time on this issue. I think we have discussed it quite long enough. Suffice it to say, our position is one of agreement. We do not believe that it would be to the benefit of this committee to go through any protracted, long discussions about something which obviously is unacceptable. The government members have indicated from the beginning, when it was raised, that it is unacceptable. So to try to get into any public great denunciations of this, which we already denounce, makes no sense. The motion is clear. We are asking the minister to do something about it. If this is proven to be true, the minister should do something about it, and I believe this committee should recommend such action.

Mr Tilson: The difficulty I have with the motion is that there is no obligation on the minister to report to this committee. We may never hear about it again. Our reputation as a committee has been challenged. The minister in her discretion may wish to deal with it. She may not wish to deal with it. She may wish to conclude that the remarks made were not serious enough. Maybe she feels that they were. She has no obligation to do anything.

I believe the minister should come to this committee. This committee is the one that is going to decide whether our reputation has been challenged. I cannot stand here and allow a minister who we are challenging, who is being challenged herself as to her conduct in this performance, to take it upon herself to deem whether something is wrong. This committee is the one that decides what is wrong, not the minister.

Ms Harrington: It is her responsibility. You are not the minister.

Mr Abel: We are not a judge and jury.

Mr B. Murdoch: She is not responsible to this committee.

Mr Tilson: There is no obligation on this minister to even report to this committee. She may write a letter and say, "Everything is fine and dandy." That is not good enough.

Mr Abel: He is on a witchhunt, that is the problem.

Mr Tilson: I am not on a witchhunt at all; I am questioning the challenge to the whole committee—

The Chair: Yesterday, I was sitting in a committee and uttered scarcely more than an interjection and I was almost thrown out of the committee.

Mr Brown: Say it's not so.

The Chair: I do not particularly think a committee should be run the way I saw yesterday's committee run. I believe that we should allow, when appropriate, some free exchange, and then after that free exchange has taken place, we should allow the member to go back to having the floor again. Mr Tilson.

Mr Tilson: There is no question that the minister should investigate this and the minister should come to this committee and report to us, as should others. All we have received is some letters to you and some letters to me. That is all we have. The minister has had a week to think about this and she has not even seen fit to provide information at this stage. I am amazed that she has not started an investigation on it already. Why in the world would it take a motion from this committee? I cannot believe that she has not started an investigation already.

Mr Drainville: How do you know she has not?

The Chair: Mr Tilson, I understand then that you are do not favour this motion?

Mr Tilson: Yes.

The Chair: The list I have is Mr McGuinty, Mr Bisson and Mrs O'Neill.

Mr McGuinty: I think that in the normal, run-of-the-mill circumstances it would be quite appropriate for the minister to conduct an investigation, but for reasons already mentioned by Mr Tilson, I think it would be quite inappropriate and improper for the minister to conduct this kind of an inquiry. That is because we are dealing here with a solicitor-client relationship.

When you talk about a lawyer and a client, the relationship they have is one of principal and agent. The principal's job is to tell the lawyer what to do, so in effect the minister will be placed in a conflict-of-interest position. She is effectively investigating herself. By virtue of the solicitor-client relationship, she is telling or has told—that is the presumption—and if that lawyer did something the minister did not tell her to do, then the recourse is to fire the lawyer or to sue her. To my knowledge neither of those proceedings has begun.

The minister in these circumstances, by virtue of that special relationship, is a player. She is a participant. She is not standing here at arm's length with some kind of third party with no interest. First, we need to hear from the solicitor and others present at the hearing, because of the difficulty we have in not having a transcript as to what actually took place, to find out what the solicitor said. Second, we need to hear from the minister in order to determine precisely what her instructions were to her solicitor.

Although in the usual circumstances it would be appropriate to have the minister conduct an inquiry, in these particular circumstances it would be inappropriate, by virtue of the minister's interest in the matter and her having provided instructions to her solicitor. So I cannot support the motion.

Mr Bisson: I notice we have changed to the Vice-Chair.

Understand where I am coming from: I have a bit of difficulty supporting what Mr McGuinty just said. The reality is that he is right to a certain extent. The minister has people working for her and gives direction as to how particular orders are to be carried out or how what shes wants to happen, happens. How lawyers deal with that in the courtroom, what words are going to be used, how things are going to be put together and how they conduct themselves in the courtroom, is not really the responsibility of the minister. It is inappropriate action on the part of lawyers themselves if indeed they said what was alleged to have been said.

So to say that the minister said to the lawyer, "This is what you've got to do and this is how you're going to deal with it and this is what you're going to say," is, I think, imputing quite a bit to the minister, because I for one have a hard time believing that any minister of the crown, be it a New Democrat, a Liberal or a Conservative, would ever put himself in that position. I have a hard time trying to agree with that.

1130

The reality is that the minister is responsible for running the affairs of her or his ministry in the same way that in the private sector a president of a company or a CEO is responsible for running a company. The president or the CEO of a company has a particular responsibility for carrying out the process of business, as does a minister. If there is discipline to be given because a person within that person's employ has done something wrong, it is up to the CEO and the organization to deal with it. It is not the responsibility of somebody on the outside to say, "This is how you are going to discipline that person."

I think our side of the committee, the same as the opposition side of the committee, is saying, "What was said was unacceptable." If what was said is true and it is investigated by the person who is responsible, who is a minister—that is the person who is in charge of that ministry—he or she should take appropriate action with that. They have the right to discipline. She is the employer; she is the one finally responsible.

For a number of reasons, I think it is inappropriate on the part of this committee that we should determine whether the person is guilty. We are not the jury here. We are the members of a committee of the Legislature who are here in order to conduct the business of the House as the bills come to us within this committee. It is not our job to go out and decide whether somebody is guilty or not guilty. We are not the employer in this case; neither are we a jury.

In this particular case, what we are alleging here is that an employee of a ministry did something that was possibly inappropriate. If that is the case, it is up to the ministry to deal with it, not this committee. That is where I part company with you. If true, it was inappropriate, but I do not think it is up to this committee to decide what kind of appropriate action should be taken. That is up to the ministry. So on that I have to part company. I agree with what was done.

I trust that in the end the minister will do what has to be done. We have to trust that the minister will go back to the ministry and have the situation investigated and, if it turns out to be true, to make a decision that she as the employer has the right to make and to carry out discipline, if that is necessary. But it is certainly not the responsibility of this committee to determine who is right, who is wrong and what kind of discipline should be given. We would not expect that to happen in the private sector; we should not expect that to happen here.

Mr Drainville: On a point of order, Mr Chair: All sides have now commented on this. I know that Mr Tilson is going to have a motion. To expedite matters, now that every party has commented on it, could we not just move to the question and then go to Mr Tilson's motion?

The Vice-Chair: Mr Drainville, just for clarification, are you asking if there is agreement of the committee that we move to a vote?

Mr Drainville: That is right.

The Vice-Chair: I still have a number of people on the list.

Mr Drainville: I am asking that because all sides have now commented on it.

The Vice-Chair: That is what I was trying to determine. Is there agreement that the vote be held now?

Mrs Y. O'Neill: How many more speakers do we have, Mr Chairman?

The Vice-Chair: We have on the list Mrs O'Neill, Mr Marchese and Mr Mammoliti, so there are three speakers. I would just as soon hear from them if they can be brief; or they can withdraw from the speaking order if they wish.

Mrs Y. O'Neill: Mr McGuinty would also like to be added to the list.

The Vice-Chair: I think Mr Drainville was just asking, do we have—

Mrs Y. O'Neill: I know. We do not have unanimous agreement, Mr Chair.

The Vice-Chair: All right, fine. Then we have Mrs O'Neill.

Mr Abel: On a point of order, Mr. Chair: Did Mr Drainville not call the question?

The Vice-Chair: I tried to clarify that. I do not think he did.

Mr B. Murdoch: You cannot do that unless you have agreement from everybody.

Mr Abel: It does not have to be unanimous. If you call the question, you vote on it. It does not have to be unanimous.

The Vice-Chair: I do not think Mr Drainville did that.

Mr B. Murdoch: I asked that last week.

The Vice-Chair: Mrs O'Neill has the floor at this point.

Mr Drainville: I was doing it in a non-confrontational way, Mr Abel.

The Vice-Chair: That is how I understood it.

Mrs Y. O'Neill: This question came to the floor of the Legislature last Thursday. The Speaker ruled on it this Tuesday. He stated: "This is clearly a matter which is before the standing committee on general government and ought to be settled in the committee." That, I think, is his instruction. Removing it from this committee is, in my mind, going against the advice we sought and which was sought by a member of this committee. I feel that we are not just talking about solicitors' remarks here; we are talking, as Mr McGuinty has reminded us, about a client or crown attorney and a minister.

We have had lectures in this room this morning about democracy and how we should be MPPs and how we can relate to people in our constituencies. The ministers of this crown are accountable, as are all ministers, as indeed we all are, but certainly ministers of the crown are even more accountable. I feel there was a series of actions surrounding this event. It is not just a few statements by a solicitor. Many communities were being affected, and we still did not see that the minister was intent on listening. That is really the crux of the matter. I feel very strongly that the minister must come before this committee, and therefore I cannot accept this resolution as presented.

Mr Marchese: The Speaker ruled that this committee should deal with it, and we are. That is why there is a motion before us and we are considering that.

A number of comments made by a few members opposite are discomfiting to me and to some extent dangerous, because they make the allegation that the minister directed the solicitor to say certain things. Mr McGuinty did not say that, although he agreed with what Mr Tilson said and I should point out that Mr Tilson today made reference to that. Prior to this, I was going to suggest on a point of order that he be very careful when making those allegations, because we do not know whether there was indeed any discussion or whether anything was said between the two people. But I want to point out that it is a very dangerous thing to say that the minister may have directed the solicitor to say certain things, so the members opposite should be very careful in saying that.

Mr Tilson: Mr Chair, on a point of order: I was the one who made those statements, but we are quoting two separate letters from two separate individuals. I repeated the allegation made by two individuals who were present and heard the comments made by Joan Haberman.

The Vice-Chair: Thank you, Mr Tilson. I do not think that was a point of order but a point of clarification.

Mr Marchese: I want to be very clear about some of those comments because I think they are indeed inappropriate. Mr McGuinty speaks about the problem of the solicitor-client relationship with the minister and conflict of interest. It is inappropriate because she is investigating herself. I genuinely believe those comments are indeed inappropriate. A minister has a responsibility to deal with issues or problems whenever they occur, and simply because a solicitor is in the employ of that ministry does not mean the minister is implicated or indirectly investigating herself. It is inappropriate.

I think the motion before us is appropriate and proper, because what it tells this committee and others who might be seeing this is that the minister needs to address it and should. In our view this will be addressed, and this motion does just that.

Mr Mammoliti: I have sat here and listened to what I now agree, as my colleague said earlier, is a witchhunt. I do not like this at all. It is bad enough that you are trying to manage our affairs in the House; you are coming into committee and trying to manage the minister's affairs as well.

Mrs Y. O'Neill: It is Ontario's affairs, Mr Mammoliti. I do not know about your affairs.

Mr Mammoliti: In my opinion, we have dealt with this, we have talked about this. We are going to recommend, hopefully, and that is it. That is all we should do. Hopefully after our recommendation, the minister will investigate it.

More than that, I would accuse you of witchhunting; I would accuse you of deliberately trying to discredit us. Frankly, that is not the role of the committee, is it? I will say it again: We are supposed to be a team here.

In view of all this and in view of the fact that we are running short of time, I call the question at this time, Mr Chairman.

The Vice-Chair: Mr Mammoliti has asked that the question be now put. Those in favour of the question being now put? Those opposed? The question will now be put.

Mr McGuinty: Mr Chair, on a point of order: I just want to note for the record that this is a very serious matter, and effectively the debate is being—

The Vice-Chair: That is not a point of order, Mr McGuinty. There is no debate at this point.

Mr Tilson: Mr Chair, I would ask for a recorded vote.

1141

The committee divided on Mr Drainville's motion, which was agreed to on the following vote:

Ayes/Pour–5

Abel, Drainville, Harrington, Mammoliti, Marchese.

Nays/Contre–4

McGuinty, Murdoch, B., O'Neill, Y., Tilson.

Mr Tilson: I wish to make a motion which is somewhat different from the motion that has just carried and which, I submit, complements the motion. I have written it out in longhand. No one will understand my writing, but I will be pleased to give it to you.

I move that the standing committee on general government conduct an investigation into the remarks made in a court of law by a lawyer representing the Ministry of Consumer and Commercial Relations on the closing of registry offices and that the committee hear such witnesses as are necessary to making a report to the House on such matters as affect its proceedings. These witnesses would include but not be limited to the Minister of Consumer and Commercial Relations, Joan Haberman, Richard Lemaich, Gil Deverell, Peter Fallis, Thomas Claridge and Mr Justice O'Driscoll.

The Chair: I have before me the wrong motion.

Mr Tilson: That is because I have not given it to anybody.

Mr Marchese: There is a question here. We have just voted on a motion which was quite clear, and some members here voted in favour and some others did not. Is this motion not contrary to the previous one? Is it not clear that the speakers, in speaking to the other motion, were indicating a view and that this is already reflected in the previous motion and discussion? Could you comment on that?

The Chair: I think what I would like to do first is to read Mr Tilson's motion into the record as a courtesy. Does the committee want me to dispense with that?

Mr Marchese: This is what I am asking you to rule on, Mr Chair. If we have already voted on a motion on this issue, which clearly some agreed with and others opposed, and we understand that they are opposed to it for the reasons that are now indicated in another motion, is it necessary to go through it again?

The Chair: What I was going to suggest to the committee—and I have also received advice from the clerk on this matter—is that in my view Mr Tilson's motion is out of order because the committee does not have the authority yet, or has not been given the authority yet, to do what Mr Tilson's motion wishes us to do.

The Speaker, in my view, was very clear as to what he instructed the committee. He instructed that the matter be dealt with "before the standing committee on general government, and after considering"—he refers at this point to transcripts, but I view that to mean whatever information is necessary.

He suggested that if we wished to go further, the committee had to present to the House a committee report, which I assume would be brought forward by the Chair, indicating that the committee's privileges had been breached and that this committee wanted to do something about it on its own or refer it to the standing committee on the Legislative Assembly.

So on the instructions of the Speaker, and based on our traditions and conventions here in this Legislature and in committees, Mr Tilson's motion is ruled out of order. Mr Tilson's motion would be in order if the committee reported to the Speaker that it believes its privileges have been breached and therefore we want authority to call certain witnesses, obtain certain documents and carry on with some type of proceeding. That is my ruling.

Mr Marchese: Very well. So it is in order to move adjournment now, Mr Chair?

Mr Tilson: Mr Chair, I am not so sure, with due respect, that I agree with you, but the clerk has obviously advised you on the proceedings and I will accept that reluctantly. Accordingly, if that is the case, that we must report back to the House that we require further authority to proceed with a motion similar to that I have put before you, then I would so move.

The Chair: Would you like to confer with the clerk for a couple of moments and try to get a motion together? The committee has other matters to attend to.

Mr Marchese: Mr Chair, I am having a difficult time with this. There was a motion that was put before. We voted on that and it passed.

The Chair: That is correct.

Mr Marchese: So in my view, that has dealt with the issue.

Interjections.

The Chair: Mr Marchese has the floor. Let him finish, please.

Mr Marchese: Which is to repeat what I have said. The other members have clearly expressed their view, which is reflected in the motion as well, and it was defeated by passing the motion that we passed. I do not understand why we are repeating the same process on another motion.

The Chair: Mr Marchese, I am not here to defend any party's point of view and I do not want anyone to construe my comments as a defence of Mr Tilson or anyone else. This committee and members of this committee have the right to make as many motions as they see fit. Even if Mr Tilson's motion appears to you or to anyone else to be a duplication or irrelevant or unnecessary, that is for each individual member to ascertain for themselves. The Chair has no authority.

Mr Marchese: But the Chair also has a duty in some ways to deal with the issue. If, from your point of view, it has been dealt with, you also have the responsibility to dispose of matters and not to drag them on unnecessarily.

The Chair: No. You give me more authority than I have, and some days I wish I had more authority than I

have, but I do not have the authority to unilaterally inform Mr Tilson or Mrs O'Neill or Mr Bisson that their motions are irrelevant.

Mr Marchese: Very well. Thank you.

Interjections.

The Chair: Order, please. I understand what I am hearing from the members. Now let me explain to the members what I think Mr Tilson is trying to do.

Mr Marchese: No, Mr Chair. That is all right. I am quite prepared to listen to the motion and to deal with that as opposed to having to explain—

The Chair: I have the feeling that some members consider Mr Tilson to be out of order when he is not out of order.

Mr Marchese: No, that is fine, Mr Chair. I am quite prepared to listen to the motion again and to deal with it.

Mrs Y. O'Neill: Mr Chairman, has Mr Tilson's motion changed?

The Chair: I ruled Mr Tilson's motion out of order.

Mrs Y. O'Neill: Right. Is there a new motion now?

The Chair: Mr Tilson has a new motion.

Mrs Y. O'Neill: Certainly the main objection I have to the motion that has been passed is that it does not give us the authority the Speaker gave us. There is no way in which we are involved any further and can solve this matter. To just send a letter to the minister making a request for an investigation is not the same as this committee working on this matter, and that really concerns me. So let's hear what the motion is.

The Chair: I appreciate that, but that was an issue that was talked about earlier.

Mrs Y. O'Neill: I know. The debate was closed, and I think that is really important. For a second time the debate is being closed, or there is an attempt to close it, and that is just a bit much.

Ms Harrington: On a point of order, Mr Chair: In the direction given to this committee by the Speaker, it clearly said: "After considering the court transcripts, the committee may make a report to the House." "May" and "considering the court transcripts." Obviously there are none.

Mrs Y. O'Neill: I would like to know why there are none.

Ms Harrington: Without the transcripts, we are on pretty shaky ground to say that we have authority.

Mr Tilson: I wish to make a motion, Mr Chair.

The Chair: Mr Tilson moves that, whereas this committee, based on documents currently in its possession, believes that its privileges may have been breached, this committee requests direction from the Speaker to further inquire into this matter.

Any discussion on Mr Tilson's motion? Mr Tilson, you have the right to go first.

Mr Tilson: I believe that this committee cannot leave this matter up in the air the way it is and simply allow the minister to investigate herself. It goes beyond that. It goes into questioning the whole committee process of this House, and the effectiveness of this committee specifically. All members have agreed that something has happened that is wrong. That matter includes the conduct of this minister. As I understand it, Mr Chair, the motion requires direction from the Speaker to conduct an inquiry and to subpoena or call witnesses. That is the intent of the motion.

The Chair: If I was like the Chairman I had to suffer through yesterday afternoon, I would probably have to expel everyone. I think it is important that we have some kind of interaction as we go along. It adds a lot to the debate, as far as I am concerned. But after that has been done, we should allow the member who has the floor to proceed.

Mr Tilson: Mr Chair, I appreciate you and the clerk assisting me. My intent is that this committee make its inquiries as to whether these facts are indeed correct. If they are correct, what are we going to do about it? What are we going to recommend to this House be done about it?

This is not picking on a specific minister, although obviously this minister, whether she likes it or not, is deeply, personally involved in this and we must hear from her. We must hear from her personally. We cannot simply allow her to go off and make her own report. The first motion has been passed and she may or may not comment on it. But we should have the right to have her come and explain her conduct and that of her solicitor in these entire proceedings. To do that, as I understand it, we need direction from the Speaker for this committee to make such an inquiry.

The Chair: We are running a list. Mr Drainville, Mr Mammoliti, Mr Brown, Mr Murdoch, Mr Bisson, Mr Villeneuve, Mr McGuinty, Mrs O'Neill.

Mr Drainville: We are hearing a repetition of everything that has gone on this morning. All I can say is it does not make any sense. We have gone over the ground. I move that we put the question, Mr Chair. It is noon. We have got to go to the House in a moment to vote.

The Chair: Mr Drainville moves that the question be now put. All in favour?

Mr Brown: Mr Chair, we want 20 minutes.

The Chair: Mr Brown has requested 20 minutes. The committee will reconvene at 12:15 sharp.

The committee recessed at 1155.

1215

The Chair: The committee is reconvened. I believe everyone is here. The first vote to take place is on Mr Drainville's motion.

Mr Drainville: I move that the question be put, Mr Chair.

Mr Brown: I request a recorded vote, Mr Chair.

The Chair: Mr Drainville has moved that the question be now put. We have also been asked for a recorded vote.

1216

The committee divided on Mr Drainville's motion, which was agreed to on the following vote:

Ayes/Pour–6

Abel, Bisson, Drainville, Harrington, Mammoliti, Marchese.

Nays/Contre–5

Brown, McGuinty, Murdoch, B., O'Neill, Y., Tilson.

The Chair: The second matter to be dealt with is Mr Tilson's motion. I will ask the clerk to read Mr Tilson's motion into the record.

Clerk of the Committee: Mr Tilson moves that whereas the committee, based on documentation currently in its possession, believes its privileges may have been breached, the committee requests authority from the House to further inquire into this matter.

Mr Brown: I request a recorded vote, Mr Chair.

1217

The committee divided on Mr Tilson's motion, which was negatived on the following vote:

Ayes/Pour–5

Brown, McGuinty, Murdoch, B., O'Neill, Y., Tilson.

Nays/Contre–6

Abel, Bisson, Drainville, Harrington, Mammoliti, Marchese.

The Chair: Is there any other business before we move adjournment?

Mrs Y. O'Neill: Mr Chair, would you please tell the committee what your report will be? I presume you are going to make one to the Speaker on this matter.

The Chair: I have no authority at this stage to make a report to the Speaker.

Mr Tilson: Mr Chair, I move that you be directed by this committee to make a full report to the House on the proceedings conducted this morning.

Mrs Y. O'Neill: I would certainly think part of the report should be the two motions which were presented.

The Chair: The record is, in my view, sufficient to describe to anyone interested what happened this morning. I do not believe I have the authority to report the goings-on of this committee to the Legislature.

Mr Drainville: Looking at what was said by the Speaker in the House, it is very clear. It says that "after considering the court transcripts"—there are none—the committee "may" make a report to the House.

Mr Tilson: So let's decide. Are we going to make a report or not?

Mr Drainville: There is no need for a report. We have made the recommendation; it stands on its own.

Interjections.

The Chair: Seeing no further business put before the Chair—

Mr Tilson: Am I to assume, Mr Chair, that you are ruling my motion out of order?

The Chair: Mr Tilson, I cannot acquiesce to your motion, because what you are asking me to do is to report to the Speaker on the discussion that has taken place in a committee. There is no forum in the Legislature for me to do that.

Mr Tilson: Reports from committees.

The Chair: I cannot rise on a point of order. I cannot rise on a point of privilege. I cannot rise on reports from committees, because we have no report. There is no report.

Mr Drainville: There is no report.

Mrs Y. O'Neill: There was a motion made, with all due respect, Mr Chair, that I think needs to be reported to the House. This committee has requested—and we certainly wanted more—that the minister investigate this matter. I think the seriousness of this matter has to be kept in its proper profile.

The Chair: I did not believe it was possible to acquiesce to Mr Tilson's request. I have checked with the clerk for any precedent, for any convention, for any rules under the standing orders. The clerk supports my assertion that I am not able to report to the Legislature the request and the motion that has been passed this morning.

Mr McGuinty: Mr Chair, so that I am clear on your position, if the committee were to adopt a motion that would have you make such a report, would you not then be authorized to do so?

Interjections.

The Chair: Order, please. We cannot quite come to a conclusion on this last request made by Mr McGuinty. I am requesting that the committee give me five minutes so that I can consult with others. I will report back to the committee.

Mr Bisson: Can we refer this to the next meeting? Would that be possible?

Mrs Y. O'Neill: No, let's finish it. Five minutes only is the request.

The Chair: I will be back with a ruling before the committee no later than 12:30. I appreciate your co-operation.

The committee recessed at 1224.

1240

The Chair: After significant consultation on the motion made by Mr McGuinty, I have to rule his motion out of order, the reasons being, first, that there is no reference from the Legislature to this committee to take such action and, second, that this committee has no authority under standing order 106 over the Ministry of Consumer and Commercial Relations.

The committee adjourned at 1241.

CONTENTS

Thursday 17 October 1991

Remarks by ministry solicitor C-1653

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
Abel, Donald (Wentworth North NDP)
Bisson, Gilles (Cochrane South NDP)
Drainville, Dennis (Victoria-Haliburton NDP)
Harrington, Margaret H. (Niagara Falls NDP)
Mammoliti, George (Yorkview NDP)
Marchese, Rosario (Fort York NDP)
Murdoch, Bill (Grey PC)
O'Neill, Yvonne (Ottawa-Rideau L)
Scott, Ian G. (St George-St. David L)
Turnbull, David (York Mills PC)

Substitutions:
McClelland, Carman (Brampton North L) for Mr Scott
McGuinty, Dalton (Ottawa South L) for Mr Scott
Tilson, David (Dufferin-Peel PC) for Mr Turnbull

Also taking part: Villeneuve, Noble (S-D-G & East Grenville PC)

Clerk: Deller, Deborah

Staff: McNaught, Andrew, Research Officer, Legislative Research Service

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First Session, 35th Parliament

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Thursday 24 October 1991

Standing committee on general government

Closure of land registry offices

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le jeudi 24 octobre 1991

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 24 October 1991

The committee met at 1006 in room 151.

CLOSURE OF LAND REGISTRY OFFICES

Resuming consideration of the designated matter pursuant to standing order 123, relating to the closure of 14 land registry offices.

The Chair: As we are all aware, the House leaders for the respective parties in the Legislature convened and authorized this committee to sit for a further two hours on the matter of the government's closure of certain registry offices across Ontario.

The House leaders did not discuss this matter with myself, nor did any member of the committee. In that regard there is nothing new. In that regard I really have no formal agenda before me, so in order to try to bring some semblance of organization to what we are going to be doing for the next two hours, I want to spend five minutes, and I mean five minutes, hearing from each of the parties as to what we are going to do in these next two hours, how we are going to divide up the time, whether or not witnesses are going to be called or whatever is on the minds of the members.

The clerk advises me that the motion or the approval moved forward by the House leaders is just to write a report, but it gets more complicated than that. In order to write a report, members are going to want to speak, members may want to call back witnesses, members may want to do any number of things. I do not want to engage in a lengthy debate halfway through our time allotment if we are going to need to call someone back and unnecessarily use up all the time. I maintain that we set aside five minutes now to discuss how we are going to use the next two hours. I recognize Mr Drainville or Mr Abel to speak for the government and then we will go to the official opposition and then to Mr Tilson. We just want your best advice.

Mr Drainville: Let me just say that like you, Mr Chair, I was not consulted about these proceedings, so it is not as if I have a strong sense of the direction we should go. I certainly was of the opinion myself before this time that we had dealt with this matter. I am not particularly pleased about having the opportunity to reopen this matter at this point, but that was not a decision, obviously, that I made. So I think that rather than make any conjecture at this time, it should probably be open to those people who did want this matter to be brought up before the committee again, and then we might respond at that point.

The Chair: I will tell the committee what I have before me. I am assuming every member of the committee has received the same information. I have a draft report from Mr Don Abel representing the government's opinion on what we have heard over the last number of weeks; I have a minority report from the Progressive Conservative Party representing its feelings on what has happened over the past couple of weeks, and I have a further minority report from the Liberal caucus representing its views and setting out its recommendations.

We have two hours to discuss these matters and any circumstance surrounding these matters. What I am asking the committee members is for some guidance as to how we are going to use the two hours. Are we going to review each draft report? Are we going to have other considerations brought forward? Is there any help I can receive from the Liberal caucus in this regard?

Mr Conway: If I might, I have had an opportunity to look at the three reports and, more important, I have had an opportunity to look at what the government has done. I do not particularly like what the government has done, but that is my opinion. We have seen a situation in Lanark county that is truly remarkable. I feel that to some extent those of us who came to this committee to fight, particularly about the Almonte situation, which I thought was the most extraordinary of the 14, were vindicated to quite a peculiar extent.

You may know that there was an executive order some days ago that the Almonte decision was reversed and a new decision around the Perth office was taken. So this is a policy that is just adrift on the high seas, but the government has won the right to do this. I would certainly not be unfavourably disposed to having some of those people back. The member for Dufferin-Peel, I think, has extraordinary testimony about some government lawyer who went off to some court case and—

The Chair: Mr Conway, is there any suggestion you have for me as to how we should deal with these reports this morning?

Mr Conway: I guess the first question is that someone has indicated, I gather, a desire to have some people come back to testify before the committee.

The Chair: Can I now hear from Mr Tilson?

Mr Tilson: Yes, Mr Chair. My understanding is that the House leaders have agreed to allow us the time this morning to prepare a report to the House. That is my understanding.

I am terribly disappointed, of course, in the decision of this committee, as a result of last week, with respect to the conduct of the solicitor acting on behalf of the ministry at the hearing. I am still waiting for the Speaker's ruling on my second point of privilege in the House. We will see. I was not in the House yesterday, so presumably he will do that today.

The Chair: Order. I need advice from the committee on how we are going to proceed this morning, since this is unusual. Under normal circumstances I would know how to proceed. What I would like to do now is get support from the committee as to how we are going to proceed in the next two hours so that we can use our time valuably.

Mr Tilson: Mr Chair, that is what I was proceeding to make recommendations on from our party, as to what I

would like to do this morning. First, I think we should review the three reports. Second, I think we should have some discussion on the Perth and Almonte issues. That matter has not been discussed. It was going on while we were meeting last week. Ministry officials were actually in Perth as this committee was meeting, talking about the move, even before members of this committee had been informed of it.

I would like to discuss the effects of the moving of the Arthur registry office to Guelph, which also took place during that same period of time. It may well be that we should adjourn and allow the minister to come to this committee. I believe there has been a motion put forward by the government side, which of course carried with its votes, that the minister provide a report on the conduct of the solicitor at the court hearings and the things that solicitor allegedly said.

I have one more item, Mr Chair: that the minister should come to this committee and address us so that this matter can be finally cleared up.

Finally, our party has an individual who we would like to have an opportunity to address the committee this morning, Bill Kennaley. He was a consultant retained by a group in Wellington and Grey counties with respect to the closing of the Arthur registry office and the future closing of the Durham registry office. I would like that consultant to have an opportunity to make a presentation to the committee.

The Chair: What you are telling me, Mr Tilson, if I understand you correctly, is that in order to review the three reports that have been put forward to the committee, while we are doing that, you see a need to talk about the Perth-Almonte issue, the effects of the closure of Arthur and its move to Guelph, the calling of the minister and the calling forward of Mr Kennaley, who has acted as a consultant. Is that correct?

Mr Tilson: Yes.

The Chair: Fine, thank you.

Mr Abel: My understanding is that the three House leaders agreed to extend this section 123 matter for an additional two hours for the sole purpose of drafting a report, and I think we should do just that. That would of course exclude calling witnesses. I think we need these two hours to get a report through and to report back, and I think we should do so.

Mr Conway: I think we know what the government is about to do. I would make this easy. Clearly, the government does not want to debate this any further.

Mr Abel: Sean, there is an agreement by the three House leaders.

Mr Conway: Fine. I just think you get a stapler, you staple those three together, you put on a cover sheet and we are done. There is another place to carry on this debate. I think it would be perfectly wasteful of the time of intelligent people and good staff to prolong this.

Mr Tilson: With respect to the comments of Mr Abel, to properly prepare for the report, there is this whole issue of the conduct of the Ministry of Consumer and Commercial Relations at court hearings and its attitude towards this committee.

Mr Drainville: We dealt with that.

Mr Tilson: That is right. There was a motion made, and I assume the minister is ready to make that presentation to this committee. I think before we make our report, perhaps a time should be allotted—two hours is allotted. We do not necessarily need the two hours today. A portion of that time could be saved so the minister could come to the committee and address us.

The Chair: I was afraid this was going to happen.

Mr Abel: So was I.

The Chair: This is what happens when time is allocated to a committee without thorough thought and discussion. None of us really has a clear idea of what the House has ordered us to do. The motion by Mr Cooke in the House reads, "that the standing committee on general government be authorized to meet for not more than two hours on the morning of Thursday, October 24, 1991, to consider its draft report to the House relating to the closure of the land registry offices." That means we cannot meet next Thursday or the Thursday after. We have to meet this morning for two hours.

Mr Abel: And also to draft our report.

The Chair: To draft our report. I agree with Mr Tilson in that we may have to explore other issues in order to finalize the report. We cannot call the minister. The minister is not going to be available on 15 minutes' notice. We may want to talk about the Perth-Almonte issue if it relates to the drafting of the Conservative Party's report. We may want to talk about the effects of the Arthur closure and the move to Guelph if it pertains to the Conservative Party report, as requested by Mr Tilson. The committee may wish to hear from Mr Kennaley, who happens to be here, if it relates to the Conservative Party draft report. Other than that, I cannot see us discussing any other matters unless so suggested by committee members.

Mr Drainville: I want to say very briefly that we have been over much of this territory over and over again. I agree with Mr Conway that it does not make any sense at all to continue to go over the same territory that we have gone over before. I would say to Mr Tilson as regards the recommendation that we reopen, once again, the discussion that we went over last week at some length—

Mr Tilson: It was not closed yet.

Mr Drainville: Well, the motion was put. We have a certain time that is supposed to be allotted to do this job. We have done that job. We are supposed to be looking at winding down, not winding up again.

1020

Mr Tilson: Has she made a report?

Mr Drainville: The reality is that we are to finish our job and write our report and have done with it as a committee. All your attempts to reopen this issue on every score—which is precisely what you want to do, Mr Tilson—do not make any sense, and in my view are a misuse of the time we have available.

Mr Conway: I do not want to be misunderstood. I think there are some really interesting aspects of this policy that ought to be debated further, and I would not want my revered friend from Gooderham to miscast my view in this connection, but what the government is going to do in this committee is quite clear and I do not think we should waste the time of the committee. I suggest to my friend from Dufferin-Peel I think it is a very good case.

One of the joys about parliamentary democracy is that it presents a range of opportunity. At 3 o'clock this afternoon we will begin an open-ended debate on interim supply that can go on for days. I encourage my friends, because I think there is a lot here, rather than participate in this charade, I would get up in the House where there are not the constraints and just fire away—today, Monday, Tuesday, Wednesday. It is quite clear what the direction of the chief government whip is here, and there is no point in trying to waste a lot of time and energy when the votes just are not there. It would be pointless. But that is not to say that this policy does not require further examination. As I say, what has happened in Lanark county is absolutely fascinating and I intend to talk about that at some length, but I can count and I can hear. The instructions have been sent in and I understand that.

The Chair: Mr Marchese, thank you for waiting.

Mr Marchese: I just want to agree with Mr Conway. Mr Drainville has said much of what I wanted to say. This is my third meeting, and in the first meeting I gathered as much as one could gather on the issue. In the second meeting there was a lot of repetition about what we spoke of in the first, and I expect as much that in the third meeting we will be discussing what we discussed in the second and first meetings. Some people love repetition, and maybe you need to repeat it for us to hear each other in the third meeting and perhaps the fourth and the fifth and so on, but I personally like the idea that once we have understood each other in the first meeting, we make decisions and not waste the time. Mr Conway says that perhaps this is not the best place to do it, that he might want to do it in the House, and he should, because in my view it really is pointless to have to rehash things all over again.

We made a motion that says to the minister to assess what the lawyer may have said, and if whatever allegations were made were true, she should deal with them. I have urged the minister and the staff to get on with that report so that the members on the other side can get a response as soon as possible. I am hoping this will be made available to them soon, in the next day or so, so that they can be satisfied about whatever allegations were made and that will deal with that.

Mr Chair, as a process, I would prefer that we deal with the motions we have put forward. I recommend that we deal with the motions we have put forward in our proposal and have the other members respond again and repeat the same arguments, if we wish. That is the way to do it.

The Chair: Thank you, Mr Marchese.

Can I make a recommendation to the committee? We have three reports, as I outlined earlier, and I have listened very carefully to all sides of the committee. One is the government report, the second is the report by the Liberal caucus, the official opposition, and the third is the report by the third party, the Conservative caucus.

I am assuming all government members are going to vote for their report and this will become the report of the committee. Because of what has already been said, I am assuming the Liberals and other opposition members will not vote for your report and therefore the Liberals will then recommend their report, which will become a minority report, and the same will then happen with the Progressive Conservative report. From what I have heard, I assume that is what is going to happen in this committee. If that is the case, then I think we should proceed and accept Mr Conway's advice.

Mr Tilson: For the record, our report will be very slightly amended. In our report we talk about Almonte closing and Perth remaining open. That paragraph will be amended. It appears that decision is irrevocable unless there is something going on this morning that we do not know about, and that is why we have waited until now, because it is possible that Perth could be open and Almonte could be closed. We have waited until now to make sure that decision appears to be irrevocable, so we will be amending our report.

Mr Conway: I was not here, but I find the first item in the majority report, if nothing else, splendidly clairvoyant. I sat through all the hearings and do not remember anybody ever suggesting the closure of Perth and the reopening of Almonte. I just want to say to my clairvoyant friends that they win the Mackenzie King prize for stargazing—nothing like a good, independent Legislature.

The Chair: Moving right along, did someone on the government side want to move its report as the report of the standing committee on general government?

Mr Abel moves that the government report be adopted as the report of the standing committee on general government on the closure of certain registry offices in Ontario.

The Chair: Any discussion on this report?

Mr Conway: On the majority report.

Mr Tilson: Does it matter?

The Chair: Mr Tilson, I think it matters.

Mr Conway: You are being very charitable, Mr Chairman.

Mr Arnott: Mr Chairman, I would like to make a few brief comments with respect to this whole morning.

The Chair: No, you are out of order, Mr Arnott. There is a motion on the floor. Mr Abel has moved the adoption of the government report and I am looking for discussion on the government report. I see Mrs O'Neill, followed by Mr Tilson.

Mr Arnott: Mr Chairman, I will confine my remarks to that particular issue. I find it quite startling that we are going through this. I interpreted these two hours as giving an additional ray of light on this issue. It is my understanding that our House leader put forward the initiative to extend the hours from 12 to 14 so that we could in fact rediscuss some of the issues that have been brought forward and so that perhaps the recommendations of the government in

the report of Mr Abel might be reopened. I just want to register my complete frustration, disappointment and disgust that we are not proceeding in any meaningful way towards reopening this issue at this time.

The Chair: Your comments were out of order, but they are recorded none the less. Mrs O'Neill, any comments on the majority report?

Mrs Y. O'Neill: Mr Chairman, I am having quite a bit of difficulty with point 2. We in this committee have dealt with property through Bill 4 and Bill 121 and, although we were not dealing with commercial property, I certainly find this is a rather extraordinary kind of discrimination, that the government is going to find new tenants for any government building that is being vacated. I do not think that is the role of government. I find that then there would be certain groups of landlords in these communities that would be getting extraordinary preference or assistance or initiatives, or whatever you want to say.

In my community, I know that vacant commercial space is a problem. In any driving I have done across the province, I do not find that to be unusual. I have no idea why this would be stated. It just does not make any sense to me that these particular landlords would be given preference over other landlords in the province.

1030

Mr Conway: I want to make some quick comments around a couple of the points, and perhaps I will do it here and not repeat the same comments later on. The first part of the majority report talks about the need to exercise fiscal responsibility and the support for cost-cutting integration. I think that is a perfectly responsible position for any member of the Legislature to take, and particularly for a government member in this connection.

Throughout the piece my argument in this has been that the stated intention of this government, and quite frankly of other governments in this policy, is essentially not to be credited; it will not happen. I know exactly how this scheme works, and I quite frankly believe the Ministry of Consumer and Commercial Relations. They will achieve some of their savings, I think, perhaps not as much and not as quickly, but there is no doubt in my mind that they will receive some intermediate-term benefit by way of moneys not spent. In my view those will be completely lost when one factors in the cost the Ministry of Government Services will spend in making all the allied adjustments.

I was in Perth the other day having lunch with some people, and something very interesting was told to me: that the lease in the Perth office is a four-year lease. There is no way the government is going to break a four-year lease, I think; not in my experience with government. To do what they want to do in Lanark county, they have a four-year lease to deal with. A very substantial space will be opened up now to move the registry office for the entire county up to Almonte. Just one question comes to my mind about the Perth move and it will not be the Ministry of Consumer and Commercial Relations, which is driving this policy, that will have to answer that question. It will be the Ministry of Government Services saying, "Oh, God, now we've got four years of lease in the old Perkins building in Perth."

Maybe we can talk Leo Jordan into expanding the space, because the local member of the Legislature occupies space in that building. Maybe we can get the Ministry of Agriculture and Food to expand its space in the building. Both may be highly desirable. All I am saying is that there is going to be a not inconsiderable cost to the Ontario government as a result of the decision just announced in Lanark county.

Those people who came from Arthur and the Grey county area and the united counties of Stormont, Dundas and Glengarry I thought made very strong cases about the kinds of upgrades that would be required. The two that I remember most especially were Guelph and Cornwall. In my experience, with government being what it is, I suspect that those upgrades will run into millions of dollars.

So I accept the argument, and I would say there will be savings at a certain level accruing to one ministry. I am absolutely confident that three or five years from now we could revisit this. Of course we will never revisit this in any kind of cost-accounting way, so this is speculation. I guess it is one of the sadnesses of our process that it is invariably hit and miss. What is saved by the one ministry of government will be more than spent by the Ministry of Government Services, at least for the intermediate term in this case. Of that I am absolutely confident. As I say, having a nice, quiet lunch on the main street of Perth the other day and hearing these wonderful tales about the four years left in the lease made me think I probably could take the $1 million that is being alleged to be saved province-wide and find that it is being spent largely over the next two, three, four years in Lanark county alone. I guess that is the main point I would make around point 1 in the report.

I think point 2 then relates to that, the decision that government find new tenants. That is not unreasonable. Again, if one looks at and thinks about the testimony we heard, and the case that I know best is Lanark, I can just hear the theoreticians saying, "You know, it is a cleaner policy to have in the one county one registry office."

By the way, the great irony in Lanark county too is that the Department of Justice is closing down the old magistrates courts across the county, I gather. I gather they plan to consolidate most of that in Perth, so you have the Department of Justice consolidating around Perth and you have another arm of the administration of justice, in this case to a lesser extent admittedly, the Ministry of Consumer and Commercial Relations, consolidating up in Almonte.

If you just know anything about the lay of those rural counties—and some of you over there do—again it would be very interesting now to put a meter on the additional consumer costs in central and south Lanark with this move to Almonte. It is going to be quite significant. To be perfectly honest, most of the people who will pay that bill and gripe about it will be the lawyers, in the first instance, although there will be substantial charges right across the waterfront to all consumers. My guess is that the decision taken in Lanark will not hold, that the circumstances of daily life in that wonderful eastern Ontario county will drive this or a subsequent minister to some kind of an amending formula, at least for that county.

When I heard about what had happened in the reversal of the Almonte decision, I have to tell you that it really made me wonder about the genesis of this policy, about the way the policy developed. I know how it developed. The word came down from Treasury Board, "You have to reduce your budget." The Ministry of Consumer and Commercial Relations looked at what it could do and it went back to the old Grossman file and said, "This is it." I mean, we have tried this before. Then to hear what the member for Dufferin-Peel alleges went on in that injunction hearing, it really makes me pretty excited about the undertaking.

My point, again, is that the testimony we heard in the hearings—I was there for the entire 48 hours of hearings, as was, I think, the member for Niagara Falls, and I do not know who else is here from that. I do not think the majority of this group was there; I know the member for Yorkview was there for a good bit of it. I have said that what bothers me about this is that the bulk of this policy is going to come to bear on the residents of rural Ontario, really rural Ontario, and I do not think that is very fair. I do not think it has been thought through, because, as I say, they are two major arms of the same organization involved in this. One of them has been driving the car and the other one has been sort of dangling languidly on the other side.

I simply say that when one reviews the testimony advanced by those people, particularly in the cases of Guelph and Cornwall, and thinks about what they told us about the cost of upgrades and all the related things—I happen to know something about where that registry office is in the city of Cornwall. I do not know anything about where it is in Guelph. When you move the offices in from Glengarry and from Dundas, I think the spending, considering that it is government doing the spending, is going to be quite remarkable. I suspect that it is going to dwarf, in the intermediate term, any of the savings. I even question what will happen around the staff that represents the core of the CCR savings.

Mr Tilson: The one glaring area that I believe is missing from this report is that a lot of unanswered questions have been raised throughout the proceedings, not only the public hearings but the submissions that have been made in this committee. Because of these unanswered questions, I believe this committee should be asking the minister to review her decision with respect to the closing of the various registry offices around the province.

For example, we have yet to see a complete summary of the cost of the moves. We have yet to see a complete summary of the cost saving. We have yet to see a complete summary of the cost of changing the various registry offices. Statements had been made as to the cost of the renovation of the Almonte office, for example, some time ago, and I cannot recall what they were, but what will it cost to move Perth to Almonte? What will it cost to move Arthur to Guelph?

Mr Arnott: Including police protection.

1040

Mr Tilson: Yes, as my friend from Wellington has just indicated, including police protection, which was obviously part of the move. When Guelph moved to Arthur there was police protection, and that shows you what the people of the community feel. They were very upset about the move from Arthur to Guelph.

As I understand it, the instruments, the deeds, mortgages etc are still in Arthur. The abstract books and the microfilm equipment are in Guelph. So I suppose if you want a complete search, you currently have to go to Guelph and Arthur to complete your search.

I would like to hear comments, for example, with respect to the efficiency in Guelph. When the instruments are moved to Guelph, they will be kept in the basement, and when you order the instruments, the deeds and mortgages, etc, in Guelph, you will have to wait while a dumb waiter brings them up from the basement, from the bowels of the earth, to the main floor where the searches are done. I would like to hear comments on the time cost that is going to put to conveyancers and lawyers to complete their searches in the Guelph registry office, searches that have been done very efficiently over the years in Arthur.

There is the cost that it is going to take to renovate some of these registry offices, and I give Guelph as an example. Information has been given to me that a beautiful oak countertop has been installed in the Guelph registry office. What has that cost? It is already there. All of these unanswered questions, I believe, this committee should be investigating. We have asked for it; I think the minister should come and tell us.

There is the whole effect of Polaris, which is probably a touchy subject for both the Liberal Party and the NDP, and I appreciate that, the very fact that it is being kept so secretive. Is Polaris part of this reducing of the number of registry offices or is it not? If so, what is the effect of it all? Contrary to what the minister has said in the House, it is becoming more and more evident that Polaris is connected to the closing of registry offices. That subject needs to be clarified.

With due respect to Mr Abel—I believe it was Mr Abel who signed the report as the committee whip, with the blessing of the Minister of Consumer and Commercial Relations, it would appear—I believe there are a number of glaring omissions from the report, if this indeed is going to be the report.

There was a comment made in the report on the removal of documents from Durham during the course of the hearing. We do not really know what documentation is being referred to in this paragraph in the report. As I understand it, the documents removed had been in Durham since that time and had been registered there, and their removal at the end of July can only be seen as a preliminary step to removing the Durham office. This was while the proceedings were going on.

I think it is unfair to suggest that civil servants deliberately misled the government into making uninformed decisions. I do not believe the civil servants were malicious in doing that. I believe it is an example of a lack of consultation by this government on this particular subject. There was no consultation.

Perth-Almonte is the most glaring example. There was no discussion. The minister simply showed up last Thursday while this committee was convening to discuss with the staff that Perth is going to be closed down. My office got a telephone call, as I understand it, while I was sitting here in this committee, wanting to know my address so the

ministry could send me the announcement that Perth was going to be closed. That is how I found out about it. Mr Abel made some comments, I believe, but if that is the consultation that is being referred to, I am afraid the government should re-examine what it has been doing.

Mr Conway: Gosh, I got a call directly from the minister.

Mr Tilson: I was in here. I am sure the ministry officials may have done that, but they wanted to know where I was, first of all.

Mr Conway: I got my call at home.

Interjection: That is privileged. I think it is unfair.

Mr Tilson: Be careful, you may be investigated.

There are comments criticizing the lawyers in the system and their part in complaining. This is being self-serving; I think that is unfair. Surely lawyers, as any other group, whether it be surveyors or any other group, can come to a committee such as this and put their views, because they are a major part of the land registration system. Surely they have the right to come and make submissions as to the effect that this is going to have on the general public and the cost to the general public, and the efficiency. Surely they have the right to submit that. Already it appears that the move from Arthur to Guelph probably will be more inefficient, searching in Guelph for Arthur titles. Obviously that already appears to be surfacing as a terrible error. It is not only going to be more costly, it is going to be more inefficient.

Mr Chair, I will only conclude for the moment, subject to comments the government members may have. There has been very little consultation with respect to these proceedings. In fact, obviously there has been a move to shut us down. Closure, as far as I was concerned, took place at the last meeting. We did not have a chance to debate it. There was closure. In this committee, closure is being used continually.

My friend Mr Mammoliti talks about a display that took place in Windsor. Well, that was a result of closure. In example after example, this committee uses closure more than any other committee in this House. This whole proceeding of the closing of registry offices is an example. In other words, Mr Chair, there is very little, if any, consultation on this whole subject.

The Chair: Do you have a point of order, Mrs O'Neill?

Mrs Y. O'Neill: Mr Chair, the clerk has just distributed a letter from the minister. I wonder if you would be kind enough to read back the directions of this committee as of last week.

The Chair: I would have to consider your suggestion—

Mr Tilson: Is that a point of order?

The Chair: Yes, it is a point of order.

Mrs Y. O'Neill: I would like to hear the exact directions of this committee to the minister, please.

The Chair: Reading from the minutes taken by our clerk on October 17, 1991, in room 151 at a meeting of the standing committee on general government:

"The committee considered the matter of remarks alleged to have been made at a court hearing relating to the closure of land registry offices.

"Mr Drainville moved that, whereas certain remarks have been alleged to have been made by a lawyer representing the Ministry of Consumer and Commercial Relations which, if such comments were in fact made, would be considered totally unacceptable to all members of this committee;

"That the committee recommend to the Minister of Consumer and Commercial Relations that she investigate the truth of these allegations and, if they are proven to be true, that appropriate disciplinary action be taken to correct this unacceptable public utterance.

"Mr Mammoliti moved that the question be now put."

It was carried.

Mrs Y. O'Neill: Mr Chair, then I certainly find the letter from the minister less than helpful. It states, "I am satisfied." Certainly the minister must realize how difficult this matter has been for this committee and indeed for all of the communities that have been involved, not just for the members of this committee. There is no absolutely no indication of any kind that there has been an investigation—none. We know there were no transcripts from that court hearing. Again, I have not been able to get any answers as to why there were no transcripts. I also find that confusing.

The Chair: It is not usually done for those types of hearings.

Mrs Y. O'Neill: It is not done for those types of hearings? That is really confusing.

I really feel the minister could have helped this committee a lot more than she has done with this letter. This is exactly what we expected—the minister was investigating herself. She naturally finds no fault with that.

Mr Conway: In my church this is called an ex cathedra ruling.

1050

Mr Tilson: This is obviously, as has been indicated, exactly what we predicted. The fact that these statements were made has been unrefuted by the minister. She says she finds them not offensive. I find them very offensive; this committee should find them very offensive. If this is her report, the system has just been proven to be a sham. She has investigated herself and has said that the remarks made by the solicitor—and it appears she is acknowledging they were made—are not offensive. We all have copies of the letters, and if individual members, in our own hearts, do not find them offensive, then there is something wrong with the system.

Mr Mammoliti: On the point of order—and do not forget, I want to speak to the issue as well—I have to stick up for the minister in this case. I think the letter is just; I think it is right. As much as both the opposition and the third party members would love to be the minister and would love to be in her particular shoes at this point, I do not think it is right for them to criticize her in how she does her job. She has a mandate and she is doing what she feels she has to do. She has investigated, obviously. She is satisfied that the solicitor—

Mrs Y. O'Neill: She has not used those words.

Interjection.

Mr Mammoliti: I am sorry, Mr Chairman; I am being interrupted here.

The Chair: As I have told all members on numerous occasions, I allow the odd interjection and I do not prevent any member from doing that, no matter from what side. We usually get right back to order.

Mr Mammoliti: We asked the minister to look into it and she has. She is reporting back to us. I am confident that she has exhausted every particular avenue, every possible angle and that she has reported back to us. Leave it at that.

Mr Marchese: I just want to express a different view. From a personal point of view, reading this letter, I am not satisfied myself about the content. Perhaps there are some legalities that I need to understand about what can and cannot be said, but I would prefer to be a little more satisfied with a little more substance about some of the concerns that both opposition members have raised on this matter. For my part I will communicate to the minister that I believe what is needed here is a little more substance and something that addresses a little more in detail some of the concerns they have raised, and hopefully within the power to state whatever can be stated, it should. It may not satisfy us completely, but I would like to see a little more detail, so I will communicate that to the minister.

Mr Arnott: With respect to the point of order, I think it is quite clear from reading the minister's letter that she does not particularly care what happened at the court, if indeed it did happen. She does not refute that it did, as my colleague the member for Dufferin-Peel stated.

I would like to remind the committee that about three weeks ago I asked the minister a question in the House with respect to this court proceeding. As the committee will recall, there were a number of lawyers bringing forward an application for a declaration that the closure in Arthur, as well as the other closures, was invalid. I asked the minister specifically if she would at least await the outcome of the court hearing before she proceeded to close the Arthur office. She did not say that she would. By her silence she indicated to me that she did not give a hoot as to what happened in the court. It has just been underlined again with this letter to the committee, which once again I think shows an utter lack of respect for the court as well as an utter lack of respect for her colleagues on this committee.

Mr Conway: On that same point, I do not want to be too harsh. I was not here for the discussion around the matter that was first raised by our colleague the member for Dufferin-Peel. There is no question, on the basis of what I heard alleged, that it is very serious. I am quite prepared to believe that the minister did not know. Something probably did happen, because I do not think people just imagined what was reported. In fact, I think there is some relatively hard evidence of people who were in the courtroom who made pretty strong statements about what was advanced.

I can only tell you from my experience—it is an experience in government of almost six years—that these kinds of things did happen. Embarrassingly, on more than one occasion, some of the most unbelievable things happened to me that I never knew about. To be perfectly honest, a lot of them had to do with lawyers. I do not mean that as a criticism of lawyers, but some things were said in tribunals and courtrooms that were absolutely breathtaking.

I am not prepared to be too critical. I think the minister's letter is incomplete and I just assume she did not know what was said or done in her name. That would not be unusual, notwithstanding the theory of our system of responsible parliamentary government. I would ally myself with the member for Fort York in some kind of reasonable suggestion to the minister that on the basis of what we know, what has been advanced by people who were there, perhaps something more than two paragraphs is required to deal with it.

The Chair: We have allowed some discussion on Mrs O'Neill's alleged point of order, which I must inform the committee is not really a point of order. I have allowed limited discussion to take place because I know of the feelings on this matter from all sides of the committee room. Serious allegations were made about how this committee is being conducted and whether or not our work in this regard was appropriate, and because of those allegations that were made in writing to me as the Chair, I thought we should allow very limited discussion on Mrs O'Neill's point of order.

I am going to rule her point of order out of order because under strict adherence to the standing orders, it is not a point of order.

There appears to be some general agreement that there is dissatisfaction with the minister's letter. It would be appropriate, in my view, if the committee so advised, that I could ask the clerk to draft a letter to the minister informing her that the committee members would like more information in regard to how she reached these conclusions and any other information she could give to us which might help all of us defend the proceedings that we have undertaken over the last 14 hours spread over a number of weeks.

If that is the general consensus of the committee, I would like to proceed with that. If not, we have to get back to the committee reports.

Ms Harrington: On that point, Mr Chair, when I understood that we were meeting again today for the two hours, it was my understanding that we would have an agenda probably drawn up by the subcommittee whereby we dealt with this very topic. From speaking with the minister, as I do sometimes casually, it was my understanding that she and/or her staff was willing to come to this committee to address the concerns we were dealing with before. I was very surprised when I came here that there had been no preparation and that the subcommittee had not met to deal with the two hours.

The Chair: I was very clear in expressing my disappointment at the commencement of this committee meeting that I was consulted by no one in regard to what we would be doing this morning. I received no communication from any member of this committee or anyone who negotiated the extra two hours. That is why I suggested we spend the first five minutes of this committee meeting this morning to outline a perimeter for discussion. Mr Tilson moved four different points for discussion. It was apparent to me and

apparent to other members of the committee that none of Mr Tilson's points for discussion was going to be approved.

Based on that and based on the advice from the committee members, I then proceeded to ask the committee members to discuss in detail each individual report, starting with what I perceive is going to be the majority report. Then the clerk handed me a letter from the minister regarding the closing of the registry offices. This being the last morning for this discussion, I asked to have the letter distributed. Then Mrs O'Neill raised a point of order on a matter which I consider to be very sensitive.

We all have to remember that we received letters from certain individuals who participated in these hearings that said that the way I conducted these hearings was improper, that all of our participation in these hearings was nothing more than a sham and a charade. These were allegations made against us, so I wanted to have the committee members have an opportunity to reply to some of the things that are being said. Maybe that was wrong on my part, but I thought it was appropriate.

Mr Marchese: For the purposes of clarity, I have no problems with our sending to the minister the direction that you were leading to and some of us talked about. In the original motion we made last week, we did not say within it that the minister should report back to this committee necessarily. What it says is that she should deal with it.

This letter was an attempt to satisfy the members and it was sent here. But I am quite supportive of the idea that we send something to the minister that says we need a little more substance or detail on this issue—because serious allegations were made—to the extent that it is legally possible to do so. I would support that direction. However she communicates it to us is completely left to her discretion. I wanted to make that point.

The Chair: Before we have further discussion, do we have a consensus to instruct the clerk to draft a letter reflecting what has been said by committee members this morning? Then when we have a draft of the letter prepared, I will call a meeting of the subcommittee, which will review the draft letter, make whatever changes are deemed appropriate and then forward the draft letter. Do I have a consensus for that?

Mr Mammoliti: Could I please call for a five-minute recess to talk with my colleagues at this particular time? Would that be possible?

The Chair: Mr Mammoliti has requested a five-minute recess. We will reconvene at 11:10 am.

The committee recessed at 1103.

1113

The Acting Chair (Mrs O'Neill): I will begin with a request of Ms Harrington, because during the break some of the members of the committee were trying to recollect what she said. Unfortunately, Hansard was not able to get it exactly. Did you make the statement, Ms Harrington, that the minister had indicated to you that she was willing to come to this committee?

Ms Harrington: She did. When I heard we were going to have two hours, I assumed that the subcommittee would be planning for these two hours to try to clarify the situation.

The Acting Chair: It is most unfortunate that your knowledge did not get to the correct people, because it was certainly something we asked for last week and had been told it would not be possible.

Mr Abel: I think we have to put a few things in perspective here. First of all, it was agreed by the three House leaders that this 123 was going to be extended by two hours.

The Acting Chair: That is correct, and it was announced by your House leader yesterday.

Mr Abel: So here we are. I checked with the House leader to find out what was on the agenda for these two hours. It was quite clear. I was told that we were to draft a report, plain and simple, nothing else. We were not to entertain more presentations or anything of that nature.

The minister did indicate a willingness to come and speak to the committee. However, in compliance with the agreement made by the three House leaders, that was just not possible, so we felt it would just stir up the nest by bringing people in when that was not the intent of this two-hour extension.

The Acting Chair: It is very difficult, since it has been a difficult issue from day one, to have had that as a very focused request and the message never got to the correct people. I have said that before.

Mr Marchese: Before we left, the Chair suggested a proposed direction and I think there was a sense of agreement, although there might be some who want to make other comments. Then we might want to get back to the motions. I think most members have already spoken to that.

The Acting Chair: Are you speaking to that request then, Mr Marchese?

Mr Marchese: I have spoken already on that.

The Acting Chair: Okay, and you do not want to add anything further?

Mr Marchese: I was suggesting that direction.

The Acting Chair: Does the clerk want to renew the memory of the committee then regarding what the request will be so we can get back? We have all had a break for 10 minutes, talking about other things.

Clerk of the Committee: The Chair had asked if there was agreement that a letter be sent to the Minister of Consumer and Commercial Relations on behalf of the committee asking for further details on the investigation of the remarks alleged to have been made at a judicial review relating to the closure of land registry offices.

Mr Tilson: I wish to discuss that subject, but if the committee has general consensus that a letter is to be written to the minister—

The Acting Chair: We are not going to vote. There is general consensus. Are there any objections to that?

Mr Mammoliti: I just want to say that I still feel strongly about the letter. I still feel that in my opinion it is satisfactory. I have heard the arguments. I have heard what everybody has to say on it.

The Acting Chair: Are you saying you do not agree with the consensus?

Mr Mammoliti: In terms of a consensus, I know that people want to see more information in the letter, again, even though this one is fine with me. I do not have a problem with it.

Mr Abel: I want to make it clear that the motion in no way obligated the minister to report to this committee. She did go the extra mile by way of this letter. I must concur that I would like to have seen a little more substance to the letter. There were some very serious allegations made. I think we would all be interested in seeing just a little bit more information by way of a letter.

The Acting Chair: So you all agree and there will be no necessity for a vote. That matter is then closed and we will be making a further request to the minister. On another matter, Mr Tilson?

Mr Tilson: If there is consensus as to the subject of a letter being written to the minister, that is over, although I would ask—

The Acting Chair: I understand that letter will be presented to the subcommittee before it is finally sent.

Mr Tilson: As I see it, there are two issues before this committee. One is the motion that is still on the floor moved by, I believe, Mr Abel that the government committee report be the report of this committee to the House.

The second issue is this committee's concern on the alleged statements that have been made by the solicitor acting on behalf of the government in a court of law. A motion was made last week for the minister to investigate that. This report we now have is, I assume, the minister's investigation of herself.

I want to clarify one of Mr Conway's comments.

The Acting Chair: You will have to make this very concise, because I really am being quite generous with you.

Mr Tilson: I will, Madam Chair. Mr Conway made some comment that he did not believe the minister knew what the solicitor was saying. Quite the contrary. The allegation was made quite clear by the correspondence that has been filed with this committee that she did know. The solicitor acknowledged in a court of law, before the justice, that she had instructions from the minister to make those statements.

The Acting Chair: Mr Tilson, I think I am going to have to rule you out of order, because I think we have the motion to write the report. You are now going back over last week's work. You also realize that knowledge is timely. When the knowledge was received could be a debatable point and I do not think this is the place or time to do that.

Mr Tilson: I am sorry. Surely I have the right to make suggestions as to what should be in that letter.

The Acting Chair: I think we have to deal with the report. I am sorry. Are you on the subcommittee?

Mr Tilson: I doubt it.

The Acting Chair: I think you have access through one of your members, and I do not know which one, to be on the subcommittee. At that time I hope there will be a democratic drafting of a letter, which is always very difficult but I do not think impossible. Maybe at that point you can have your input into the actual letter that is going to the minister at the direction of this committee.

Mr Tilson: Finally, before we leave this subject and get on to the motion before us, it seems to me, dealing with this issue, which is quite separate from the report, that somehow we have got into it mainly because the letter appeared before us as I was speaking, in fact.

The Acting Chair: Correct.

Mr Tilson: I was talking about the report, and the letter was placed in front of me. That is fine. They close off the debate and then a letter appears. I am simply saying that there should be no problem with respect to the minister coming and clearing this cloud that has been created over this committee and over the minister herself.

1120

Mr Marchese: This is a separate matter.

The Acting Chair: Yes. I was just going to state that. All I am saying is we have knowledge—it was brought to us today by one of the members of this committee—that the minister is willing. The only way I think that whole matter can happen again is if the House leaders talk again. I do not think this committee can, at this point, call forth the minister. This is a time allocation matter. We have been given two hours. It is the first time it has happened in the Legislature that the 12 hours have been extended. Mr Arnott, is it on this matter?

Mr Arnott: Yes it is. I just want to make a constructive suggestion. I notice that the member for Guelph, the Minister of Consumer and Commercial Relations' parliamentary assistant, has made his initial foray into the room and I am pleased to see him today. Perhaps he might be prepared to make some comments on behalf of the minister or some further clarification of the letter.

The Acting Chair: I think it is out of order. I really find it very difficult that people on this committee, and indeed some members of the government in the House, continually tell the Speaker how to rule. I will not accept that members of this committee continue to tell me how to rule. At least let me make my ruling and then you may disagree with it, but you are not going to tell me how to rule before I even open my mouth. Sorry.

Now, we are talking to the report. We have a motion before us that the report signed by Mr Abel is to be the report of this committee. Mr Tilson.

Mr Tilson: With respect to the motion, I have indicated in my initial comments several items that I felt should be in the report. Accordingly, I would make an amendment to the motion that we ask the House that the minister provide details with respect to the cost of the various moves, the cost of the impact on these communities, and the cost of renovations, of moving, to the various registry offices, as well as confirmation of the whole effect of Polaris on these moves.

The Acting Chair: You have a four-part amendment to the report. Do you want to add that to any one point in the report, Mr Tilson?

Mr Tilson: Just to the general motion.

The Acting Chair: All right. You are asking for an extension then of the government report, I presume, for further information.

Mr Tilson: No, I am asking that this committee request that the House direct the minister to provide this information to the House.

The Acting Chair: This is very confusing, Mr Tilson, because we are talking about a document before us. If you want to make an amendment, it will have to refer directly to that document.

Mr Tilson: I have done that. I would like that as part of the report to this House.

The Acting Chair: That is very difficult, because it does not fit in unless you want a sixth point added. You will have to fit your amendment into this report in some fashion, either as an appendix, a sixth point, or in some way. The comments you are making are totally outside the report.

Mr Tilson: Thank you, Madam Chair, for your suggestions. A sixth point should be added to the report: that the Minister of Consumer and Commercial Relations be requested—and I will use the word "requested"—to provide specific financial details of the cost of the moves from the various registry offices in consolidation; the specific financial details on the impact on the communities that those moves affect; the cost of the renovations to the various registry offices to which the moves are taking place; the specific connection of these moves to the proposed introduction of the Polaris system throughout the province.

The Acting Chair: And that those be presented back to this committee?

Mr Tilson: Yes, you are quite right.

The Acting Chair: I think that is a friendly amendment in that it is an extension of knowledge on this issue. It does not seem to conflict in any way with any of the other five. It is a request for further information. Does anyone want to speak to the amendment?

Ms Harrington: May I speak to this amendment and a little broader as well?

The Acting Chair: Let us see how broad you want to go.

Ms Harrington: I was originally going to discuss a little bit of what Mr Conway was talking about, and that is the alteration and the cost of moving. That is how it fits in with this.

In Niagara Falls, I have asked the Ministry of Government Services to give me a list of the number of offices that are rented, the actual square footage of each of these spaces and the number of employees of these different offices to see what in fact the Ontario government does in the way of outreach or service to the people.

The Acting Chair: Of all ministries

Ms Harrington: Yes, and what I am saying, which connects with what Mr Conway was saying, is that it is not just one ministry here that we are talking about. For instance, in Perth there may be other ministries that are interested in those facilities. It goes beyond this one ministry.

The Acting Chair: You did bring that point forward, and you said you are more or less reinforcing some of the things he was suggesting.

Ms Harrington: First of all, I would say that it would be a little difficult in a short space of time, and rather complex. You would have to go to the Ministry of Government Services to get all the implications of these moves.

Mr Conway brought up the fact that maybe if this ministry moved out, another ministry would take up space. I am looking at that same situation in Niagara Falls. As to what we have and what is the best and most efficient use of that space, trying to consolidate different government offices into one office, I am saying that the request that Mr Tilson just put forward may not be able to be appropriately answered, because it goes into other areas.

I wanted to go a little further into some of the other points that were in our report. I think it came to grips with some very important issues. First of all, we were totally unsatisfied with the kind of response this ministry gave when people came to it with regard to correspondence; from what we heard in those hearings in July, it was not satisfactory. This is a very important request of that ministry from this committee, that things be changed.

Second, the consultation, which is number 5: We recommend, as a whole committee here, that they look into this past year and how they did the consultation, and as was noted here—it goes way back to 1978 or something—the types of investigations. I would also like to insert at this point that at least half—and I would say 90%—of the problem we are facing here is the timeliness of this committee's work with regard to when these decisions were made. That is why we are having all this difficulty. If the decision had not yet been made, we as a committee then could make a recommendation to the ministry. The fact that it is the opposite way round is why we are running into all these problems.

The points that have been made by the government in this report are very important: first of all, the consultation; second, the acknowledgement of correspondence. I want to address what Mr Tilson started out by saying, and that is that the move from Perth to Almonte was not satisfying him. He was now criticizing this move, which the government recommended in this report and which in fact happened a week ago. If I recall correctly, it was something Mr Tilson and the opposition members of this committee asked for, requested very strongly, kept asking for, insisted on, and tried to explain; that Almonte has a $1-million building that opened a year ago and would be very suitable to be used as a registry office. It is very difficult to hear that at one point in time, and then very shortly to hear that it is not satisfactory to him.

1130

Mr Conway: On a point of privilege, Mr Chair: I have great respect for the member for Niagara Falls and I was not here for all the activity outside the two days of hearings, but I sat through those two days. I probably had as much or more to say about Lanark county as anyone, save and except for the member for Lanark-Renfrew who appeared for part of those two days. I do not ever remember

saying what has just been alleged or, quite frankly, anyone else saying it. I know there was a great debate around the Almonte case and that the issue at Almonte was that the brand-new building had been constructed, but I just want to be very clear that I never said and I did not hear anyone else say that the issue in Lanark county was closing Perth to maintain Almonte in operation. I simply want to make that very clear.

Ms Harrington: Mr Chair, to reply to that, I certainly do not want to mislead anyone. I simply want to reflect as accurately as I possibly can my understanding. I thought there was a lot of discussion about that particular move to close Almonte. It was a focus of that committee for a good portion of the 12 hours, at least a couple of hours. That is my recollection—I cannot name the exact member who made these assertions—but the Almonte office should definitely remain open. That was my understanding.

Mr Conway: It was argued by many people that the Almonte office should be kept open. I never remember anyone saying it should be kept open at the expense of the Perth office.

Ms Harrington: One per county.

Mr Conway: That was the government policy and that was certainly clear from the government position. But I just want to make it very plain, I certainly never said, I certainly do not remember Mr Jordan ever saying, I do not remember any member of the opposition saying, and I do not remember any member of the testifying group from Lanark county ever suggesting that Almonte should be open and Perth closed.

The Chair: The point has been made. We have allowed some considerable freedom on these points. Looking at the list that Mrs O'Neill compiled while I was in the Legislature, Ms Harrington was the last speaker.

Mr Conway: Is the motorcycle bill going anywhere?

The Chair: It is very interesting.

I would like to re-read the amendment that is on the floor so we can bring our attention to the amendment, because we have two other reports to try to discuss in approximately 25 or 30 minutes max. I will ask the clerk to read into the record Mr Tilson's amendment to the government report.

Clerk of the Committee: Mr Tilson moves that the report be amended by adding the following recommendation:

"6. That the Minister of Consumer and Commercial Relations be requested to provide information to the House on: (a) the cost of the move of the land registry offices; (b) the impact of the moves on the communities affected; (c) the costs of the renovations to accommodate the consolidation of the land registry offices; and (d) the specifics on the influence of Polaris on the decision to consolidate the land registry offices."

Mr Drainville: On a point of order, Mr Chair: Could we have a ruling as to our report? At least at this point, as we hear the amendment that is being put forward by Mr Tilson, we do not feel that is a particularly friendly motion. To us it sounds like another motion totally. It bears no relationship to what is being said.

The Chair: I am going to allow the motion to stand and I am going to ask the committee members to make their own judgement on whether or not they want it to be part of any report. Mr Tilson has moved a new recommendation 6 to the government report. All in favour of Mr Tilson's new recommendation 6 being added to the government report? All opposed?

Motion negatived.

The Chair: All in favour of the government's report dated October 3, 1991, signed by Mr Abel, the chief committee whip, on behalf of all the government members? All opposed?

Motion agreed to.

The Chair: I am advised by the clerk that this will stand as the committee's report. There will be some minor word changes so it reflects the committee report. Further, the two other reports we have before us that have been tabled will be attached to this committee report and will stand on their own as dissenting opinions.

Mr Tilson: Again, so I am clear, for some reason my staff have not produced it, but there was a small amendment dealing with the paragraph in our report dealing with Almonte and Perth.

The Chair: We will make sure it is—

Mr Tilson: As long as there is no problem.

The Chair: The dissenting opinion is up to each individual caucus. Mr Conway.

Mr Conway: May I speak again briefly to our report?

The Chair: Certainly. We are going to spend some time on each report, and appropriately so, Mr Conway. We are going to deal with the dissenting report from the official opposition.

Mr Conway: I want to say a couple of things about what I heard. I have sat around here a long time and heard a lot of submissions, and the place is increasingly being taken over by what in the 19th century would have been called wirepullers but what in the 20th century we call paid manipulators. There are days you completely despair about whether the system is worth paying for any more.

I thought those two days of hearings on this subject were some of the best hearings I have attended. I do not think it is just because people are coming in and slaying the government; they do that all the time. I once had carriage of a very popular bill having to do with an education matter here and I sat in this room, I think, for more months of my life than I care to remember. I just thought the testimony was very good. I really was struck by how many people had organized themselves to come in here.

Again, I am going to be local, but I thought the delegation from Almonte was really good. I thought they made as compelling a case as I have heard in a long time; not just those people, but I thought they were particularly effective. The member for Wellington, I know, had something to do with encouraging people from his part of the world to come down from the Arthur area and express their views. I was really quite impressed by the kind of effort they expended, the good judgement, good sense really, that I thought they

brought to the hearings. It restored my sometimes weakened faith in the efficacy of the process.

Having said that, and against the backdrop of that, I also want to say that what annoys me as the member for Renfrew North about this policy is that, without any question, the people being asked to pay for this are the people in rural Dundas, Grey, north Wellington, Northumberland, Lanark, Prescott and Russell and rural West Carleton. Those people do not have very many advocates here any more. There are fewer and fewer members of the Legislature who now speak by virtue of their electoral mandate to the truly rural part of the community. My friend the squire of Moose Creek, the deputy to the deputy speaker of the House, the member for S-D-G & East Grenville, I think, is one of the people I know who has had an interest in this and he represents a more purely rural constituency than I do.

1140

As a member from rural eastern Ontario—mind you, a county that has only one registry office but a lot of very rural environments—people are getting pretty ticked off. They feel they are getting screwed, and in many ways they are getting screwed. We did it to them with the divisional school boards. We advanced a great argument about the kinds of efficiencies that would be gained. There were efficiencies, I am not going to deny that, but boy, we have paid a price: the loss of involvement, the loss of any sense of control.

When I think about people who might be living in the southeastern corner of Lanark county now and who are going to be asked to drive, whatever it is, 60 miles up to Almonte as part of a genealogical process to search through the records, or to go from Mountain township, the Mountain area of north Dundas, all the way into Cornwall to do the same kind of work, to say nothing of what the lawyers, real estate agents and surveyors will have to do; when I think of the cost to these little towns of closing the office in a place like Colborne—there is not a great deal of government in a place like Colborne. I do not know Arthur all that well. It is a very pretty place.

Interjection: They have a riding office.

Mr Conway: They have a riding office, that is encouraging. I guess it is a lament that will not really be heard by too many people, because increasingly it is an urban and a suburban community. I live in a town called Pembroke, with 20,000 people, and we have one registry. That is all we have ever had. We have never had two, although by dint of our geography we probably could have. I do not know why we did not have two a long time ago, but we never did.

Some of you have heard me on this rant about hydro, and the rant is a long way from being completed—a minirant, I suppose—on this subject, simply because of what we are doing to some of the most purely rural environments in the province. We are asking those people to do some things we would not really be asking in some of the larger urban centres.

One of the things I often think about because I live in a car is what it must be like to have no car, to have no TTC and to have no OC Transpo in the national capital area. As local, provincial and national governments, we have done virtually—I should not say nothing, but next to nothing in providing any kind of public transit. My friend from Haliburton knows that only too well. What do you do if you are in Tory Hill and you are trying to get down to Lindsay? I guess you just do what we have always done in those rural communities; in my area you buy a car, or you rent a car for the day.

Just to make the point, finally, the effect of this policy is to make people in purely rural Ontario pay a disproportionate price for the efficiencies that have been required by government constraint. I think most of those people would say they want to be part of any kind of government restraint. I know my constituents feel that way, but they do not expect to be disproportionately singled out for the carriage of that burden. When I look at nine or 10 of these 12 places, they are some of the most purely rural environments I know. As a member from a largely rural part of the province, I want to observe that, I want to complain about that, and I want to say that the small minority of us who represent that part of the province—and it will become an even greater minority in the next generation—have, I think, an obligation to fight about it.

Mr Abel: Mr Chairman, I hope we will have time. We only have 20 minutes left to discuss the minority report.

The Chair: I remind committee members of the time allocation. Mrs O'Neill and then Mr Drainville.

Mrs Y. O'Neill: Mr Chairman, I am sorry I had to step out, but I want to speak to the actual report of the government presented by Mr Abel. I wonder if there is any government member who can tell me exactly what point 3 means: "That all ministry employees receive the support necessary to make the transition."

The Chair: Mrs O'Neill, because we have already carried the government report, we would need unanimous consent from the committee to allow you to ask that question.

Mrs Y. O'Neill: I am sorry. I missed that vote.

The Chair: We need unanimous consent. Do we have unanimous consent to allow Mrs O'Neill to ask a question on the government report?

Mr Abel: I would say no, for the simple reason—

The Chair: We do not have unanimous consent. Mrs O'Neill, please carry on.

Mrs Y. O'Neill: Then my other comments will be of a general nature. I agree with what Mr Conway has just said, and certainly as a member who represents an urban area, I did have quite full knowledge of this matter simply because the people in rural Ontario realized they had to get to some of us, and they did it. It was directly connected with the budget tours we took, because they saw this as a matter of cost, both to themselves and to the government.

Even in the government report there are at least four of those recommendations or comments in which there has been some breakdown in the way this matter has been dealt with, whether untimely acknowledgement or user group meetings. I think rural Ontario, indeed Ontario in general, needs better. I hope all ministries will see and learn from the lesson that surely the Minister of Consumer and Commercial Relations will take from this.

I am sorry my comments were not as well placed to the motion I wanted to speak to, but unfortunately I had to leave for a few moments.

Mr Drainville: I am concerned about the other members of the committee having their opportunity to present their reports. I will pass on my remarks, Mr Chair.

The Chair: Are we finished with the Liberal report? We have approximately 10 to 12 minutes, the way I see it, to discuss the report of the Conservative caucus if you so wish. I believe that is what we wish.

Mr Abel: I would just like to respond to the comments by Mr Conway and Mrs O'Neill in regard to rural Ontario and the Liberal report. I refer them to the now committee report, in the second page where it says, "If you study the list of the remaining 51 locations, a full 18% of these land registry offices are located in communities with populations under 5,000 and an additional 12% are in communities with populations of less than 10,000. So in total, 30% of the remaining land registry offices are located in rural Ontario, even though they account for only 8% of the total registration workload." I suggest to Mr Conway and Mrs O'Neill that this clearly demonstrates the government's commitment to accessibility, especially in rural Ontario.

The Chair: We will use the remaining time to discuss the report of the third party.

Mr Arnott: I would like to start by indicating my unqualified support for our report, but I want also to advise the committee that we are presently working on a revised report that we will make available to the committee later this afternoon. With respect to the member for Wentworth North, whose riding is immediately to the south of my riding—I believe we share a boundary—do not tell me that Wellington county is going to be getting better service as a result of this decision, because you are wrong. It is not going to happen.

Mr Abel: We are talking about accessibility.

Mr Arnott: I would like to start off by talking about the way this decision was made and the lack of consultation that took place: the letters that came in the mail the day of the decision saying they were going to close and there was nothing we could do; then later on the minister's refusal to meet with us, to listen to what we had to say, to acknowledge a lot of things we are saying; the promises made by the civil servants to provide information which were then cut off at the knees. We did not get the information we required to make a rational judgement as to whether this decision was going to save money, which we frankly disputed.

The government's recommendation 2, talking about new government tenants for the buildings that have been vacated, completely destroys the argument that there are going to be cost savings, because you are just going to bring in tenants from other ministries to try to fill the buildings.

1150

I totally endorse what was said by my friend the member for Renfrew North about the decline of service to rural residents. It is absolutely clear that this is what is happening here. My people in Wellington county are now being forced to drive to Guelph or Owen Sound, at least 45 minutes in either case, to get less service. There is very little locally available provincial government service in our counties. We pay a good deal of the tax burden and demand a certain level. We are not getting it and, as far as I am concerned, we are going to continue to fight for it.

As I said, I believe this decision is fallacious in that it is ultimately going to cost the government more. Look at the situation in my area, which I know the best, the Arthur office having been closed and the responsibilities that were formerly looked after there being consolidated in Guelph. The registry office in Guelph is in a downtown location. It is land-locked and there is absolutely no room for expansion. There is no parking available in any reasonable amount. The office is overcrowded. The staff, I am told, are very good but they are quite overburdened as it is without handling additional responsibilities.

I am absolutely certain that within a couple of years an initiative will be brought forward that says, "We need a new registry office in the county of Wellington because the one we've got is too small and overburdened." More and more costs are going to be incurred as a result of this decision, not fewer.

On a personal level, I would also like to observe the sense of loss I feel, because I, in good faith, invited very good people from my county to come forward, to take time out of their lives to come down here to Toronto to spend a whole day making representation to this committee. I sincerely believed that due to the merits of this case we could get this government to overturn its decision. I just cannot believe the reaction we received from the government members on this committee. There were exceptions, naturally, but most of them appeared to come forward and read the script the minister's office had prepared for them. As a new member of this Legislature, I am very disappointed with the way this issue has been handled.

The Chair: I am assuming that all discussion relating to the reports has been concluded.

There is one final matter for the committee to advise me on. There are several ways to handle the report. I would like to cite the standing orders on how we can handle the report. Standing orders 36(b) and (c) make provision for the presentation to the House of substantive committee reports. There are four means of presenting a substantive report to the House: (1) presentation only, (2) presentation with a request that the report be considered by the House and (3) presentation with a motion that the recommendations contained in the report be adopted or that the report be adopted. The reporting formula should reflect the means of presenting the report which the committee has selected. Last, a request can be made for a response from the minister within 120 days of the presentation of the report. Those are our choices, and we need to make a decision on how we wish to proceed.

Mrs Y. O'Neill: This is of such general interest—certainly members much beyond this committee have become very aware of this matter—that I suggest we have an opportunity to speak to the report in the House and ask for a response from the minister within 120 days. That has been the normal procedure with the 123s that have gone forward since they were initiated almost three years ago, or two years

ago—I forget which. I feel this matter needs to have a response.

The Chair: Mrs O'Neill has moved that the report be presented to the House with a request that the report be considered by the House and, further, that we request a response from the minister within 120 days of the presentation of the report. We will now have discussion on Mrs O'Neill's motion.

Mr Tilson: The two representatives from our party support the motion. I think she is quite right: This whole issue has gone beyond the confines of this committee. It has even ended up in a court of law. The whole subject has gone into a court of law, aside from other matters that have been reported in the press. There is a great deal of interest in this whole subject. Accordingly our party, for that very reason alone, supports Mrs O'Neill's proposal.

The Chair: Are there any further comments on Mrs O'Neill's motion?

Motion negatived.

The Chair: I still need advice from the committee as to how we are going to report this matter to the Legislature. Are there any further suggestions from members of the committee?

Mr Abel: I move that the committee make its report and its report only.

The Chair: Mr Abel has moved that the committee respond to standing orders 36(b) and (c), when making a presentation to the House of a substantive report, that a presentation only of this report be made.

Is there any discussion of Mr Abel's motion?

Mrs Y. O'Neill: This is very discouraging. This is exactly consistent with everything that has happened around this whole issue. It is certainly not the tradition in which we have dealt with 123 matters since that standing order was introduced. As anyone who worked on the changes to the House rules knows, it was in some ways to take the place of opposition days.

We did not have closure with opposition days. We certainly are experiencing all kinds of attempts at closure in this committee process on this matter. It is going to leave a very bad taste in the mouths of the people who came before us. It certainly shows there is no intent to listen and no intent to get response from the minister, other than perhaps what was passed today, but again, that is a very small response on a very limited part of this discussion.

The whole thing has been consistent and I am afraid some of the comments that have been made about this exercise are going to turn out to be very true. To me, as a member of the Legislature, it is most discouraging that this is the kind of message that goes out about the work I do on a day-to-day basis in good faith.

Mr Tilson: I agree with Mrs O'Neill's comments. Mr Marchese has commented that he has found this committee interesting and that in the number of appearances he has made we have had pretty well everything. We have had closure, we have had court proceedings and we have had the suggestion that comments were made by solicitors in a court of law as to whether it is really worthwhile to appear before this committee.

We have requested that the minister involved appear and clear up some of these matters and, for whatever reason, she will not. She will not send her staff. She will not send her parliamentary assistant, although he briefly stuck his head in the door this morning. There has been no attempt by the minister to clear this up, other than a five-line letter. She has not even refuted allegations against her. The minister is a member of this House. You say there is no agenda. Well, she knew this matter was being discussed for two hours this morning and she did not take it upon herself as, I hope, a progressive minister to appear and make comments.

The whole attitude about this whole process, from start to finish, as I have indicated in this committee before, is a sham.

Mr Abel: With regard to Mrs O'Neill's comments, I have to totally disagree with her. There was a lot of discussion on this issue. We have had presentations. Her comments that we did not listen were unfounded. If you look at our report, there was a lot of concern centred on the land registry office in Almonte. Based on the presentations given, in our recommendations we made the suggestion that Almonte remain open. That was based on the deputations given here.

With regard to Mr Tilson's reference to the solicitor's comments, the minister did speak to that particular solicitor and the solicitor refuted what was said.

Mr Tilson: On a point of order, Mr Chair: The letter did not say that at all. The member has stated a fact that just is not correct, that these statements were not made. In fact, in the final paragraph, the minister said there were "no statements that could be considered improper or offensive." There is no denial that the statements were made.

The Chair: That is not a point of order. It is a dispute on the interpretation of the letter. Mr Abel, please continue.

Mr Abel: With regard to Mr Tilson's second concern, about the minister not showing, I thought it was expressed earlier on in the committee that the minister was prepared to address this committee to deal with the comments of the solicitor. However, due to the nature of the agreement between the three House leaders, we were buttonholed into using our two hours to draft a report, and to draft a report only. Therefore we were trying to avoid stirring up the nest, feeding the bears, whatever term you want to use, because we thought for sure that was what the agreement was and that was what the three parties were to deal with here, not bringing in additional speakers.

The Chair: The discussion should be focused on whether we are going to support Mr Abel's motion, which is that we basically just present the report to the House. Do you have any further comments on that, Mr Abel?

Mr Abel: That was just in response to the two members' comments.

The Chair: I have Mr Drainville and Mr Conway and then I am sure we will have run out of time, unfortunately.

Mr Drainville: I move that the question be now put. We have discussed the situation and the bells are about to ring. Why do we not just get on with it?

Hon Mr Conway: Just as a final word, as I have said before, I think there is a desire to debate this. The rules of the House provide—

The Chair: Order, please. Mr Drainville has moved that the question be now put. That motion is not debatable. Therefore no further comments can be made. Our rules are rigid and we must follow them.

The committee divided on Mr Abel's motion, which was agreed to on the following vote:

Ayes–6

Abel, Carter, Drainville, Harrington, Mammoliti, Marchese.

Nays–4

Arnott, Conway, O'Neill, Y., Tilson.

Ms Harrington: On a point of privilege, Mr Chair: A few moments ago, when Mr Tilson was making his winding-up statements, he said he personally believed the work of this committee was a sham. We heard that from other people and we were very upset about that. To hear it now from a member of this committee I think is very serious. I would like him to reconsider that.

The Chair: Mr Tilson has heard the comments made. I have no authority to instruct Mr Tilson on what to do. My only authority at this moment is to mention to Mr Tilson that comments have been made if he wishes to respond.

The only other authority I have is to adjourn this committee and declare all our time completed.

The committee adjourned at 1205.

CONTENTS

Thursday 24 October 1991

Closure of land registry offices G-1669

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
Abel, Donald (Wentworth North NDP)
Bisson, Gilles (Cochrane South NDP)
Drainville, Dennis (Victoria-Haliburton NDP)
Harrington, Margaret H. (Niagara Falls NDP)
Mammoliti, George (Yorkview NDP)
Marchese, Rosario (Fort York NDP)
Murdoch, Bill (Grey PC)
O'Neill, Yvonne (Ottawa-Rideau L)
Scott, Ian G. (St George-St. David L)
Turnbull, David (York Mills PC)

Substitutions:
Arnott, Ted (Wellington PC) for Mr B. Murdoch
Carter, Jenny (Peterborough NDP) for Mr Bisson
Cleary, John C. (Cornwall L) for Mr Brown
Conway, Sean G. (Renfrew North L) for Mr Scott
Tilson, David (Dufferin-Peel PC) for Mr Turnbull

Clerk: Deller, Deborah

Staff: McNaught, Andrew, Research Officer, Legislative Research Service

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Thursday 31 October 1991

Standing committee on general government

Rent Control Act, 1991

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le jeudi 31 octobre 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325–7400.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 31 October 1991

The committee met at 1011 in room 151.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Suite de l'étude du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Vice-Chair: The purpose of this meeting this morning is consideration of Bill 121. By agreement of all three parties, this morning we will have the tabling of the amendments by all three parties.

Ms Harrington: I believe you have the government amendments.

Ms Poole: On behalf of the Liberal caucus, I would like to table our amendments, which, as you can see, are quite substantial. I would mention that there is one further amendment we plan to table in the near future which relates to reinstating, expanding and strengthening the Residential Rental Standards Board. Due to the fact that legislative counsel had some more work to do on that one it is not in this package but will be tabled shortly.

Mr Turnbull: We have already tabled the amendments, which are being distributed now. I do apologize that there were some problems with the photocopying device and consequently there may be a few pages where all of the text is not clear. We will have clearer copies very shortly.

The Vice-Chair: That being the purpose of the meeting, would someone move adjournment until 3:30?

The committee recessed at 1012.

The committee resumed at 1540.

The Vice-Chair: The business of this afternoon, by all-party agreement, is that the Minister of Housing will make some remarks concerning the amendments to Bill 121, followed by comments from the two opposition critics. The remarks, by agreement, have been restricted to no more than 20 minutes. I would like to welcome the Minister of Housing to the committee and ask her if she might commence her remarks.

Hon Ms Gigantes: I would be delighted. I promise I will not reach anywhere near 20 minutes. As we begin the clause-by-clause review of Bill 121, I would like to introduce a number of amendments to the legislation on behalf of the government. These were circulated earlier in the day to opposition critics. I want to stress that none of these amendments seeks to alter the central principles of Bill 121.

The government considers the tenant protection measures in Bill 121 to be of paramount importance. In particular, it is crucial that tenants across Ontario know that legislation is in place limiting increases in their maximum rent to the guideline plus 3% and that tenants know their landlord can only obtain such a rent increase by meeting strict criteria for necessary capital repairs. Tenants must be protected from the 15%, 20% and even 50% rent increases which occurred too widely in the past. At the same time, we must ensure that the rental housing stock in Ontario is preserved and maintained for the future.

Most of the amendments I am proposing today are technical in nature. The stack looks pretty thick, but most are technical in nature. Many deal with drafting issues and they will be explained by staff of the Ministry of Housing in the days ahead.

At this point I would like to draw your attention to a few amendments which are being proposed in response to issues raised by landlords and tenants during public hearings this year; specifically, first, the issue of the rent control guideline. Bill 121 proposes that two guidelines be calculated each year, one for large buildings and another for small buildings. During public hearings this summer it became apparent that both landlords and tenants viewed the concept of two guidelines as confusing and unsupportable. Therefore, in response I am proposing an amendment to create one rent control guideline each year which will apply to all rental buildings in the province, regardless of size.

On the issue of capital expenditures, I am proposing several amendments which will be of interest to this committee. The first deals with the carry-forward provisions. Bill 121 allows a landlord to apply for a rent increase above the guideline to cover the cost of major repairs to a building. The rent increase which results from major repairs is limited to the guideline plus 3%. If the major repair results in an increase that is greater than 3%, some of this can be carried forward into rent increases in future years. Bill 121 allows the landlords of large buildings to carry forward for one year and landlords of small buildings to carry forward for two years. I am proposing an amendment today which will allow all landlords to carry forward for two years.

The extension of the carry-forward period was presented to this committee during public hearings as a major and important amendment desired by landlord organizations. I am willing to allow the two-year carry-forward for all buildings in order to give Bill 121 greater capacity to help ensure the repair and preservation of our rental housing stock. I want to stress that this applies to necessary repairs which involve the structure of the building, major health and safety standards, access for disabled persons or increased energy conservation. The landlord must prove that the repairs are necessary and that they are not the result of neglect.

We have met with landlords throughout this past year, we have listened to their concerns and we have responded to those concerns. At the same time, it is clear to me that there are tenant concerns with capital expenditures which are not fully addressed in Bill 121. I refer here to costs no longer borne. By costs no longer borne I mean an automatic

reduction in the rent for tenants when a capital improvement has been paid for. This was a crucial change to Bill 121 requested by many tenants who appeared before this legislative committee during the summer. We are responding to their concerns with amendments to introduce a cost no longer borne system to rent control.

Bill 121 allows a landlord to obtain a rent increase of 3% above the guideline to cover the cost of a major repair. The costs no longer borne provision I am introducing means that the rent increase above the guideline which is associated with a specific capital improvement will be withdrawn when the capital repair is paid for. It means that the portion of the tenant's rent which is paying for the capital improvement will not be compounded each year by guideline rent increases. Tenants will only have to pay for the cost of a major repair to the building; they will no longer have to pay for the repair several times over. The guideline will apply only to the base rent. The portion of the rent paying for a specific capital improvement will be kept separate and will be automatically withdrawn from the rent at the end of the useful life of the repair. I believe this costs no longer borne provision will result in a system which is much fairer to tenants.

As I mentioned earlier, there are a great many other technical amendments to Bill 121. We have provided a letter to committee members that sets out all the amendments, and each is annotated to assist members of the committee and the public. I wanted to highlight certain key amendments that came out of the very useful public hearing process carried out by this committee and to thank all committee members for the work they have done with this legislation.

Ms Poole: Prior to commenting on the minister's remarks, I would like to go over with members the highlights of the Liberal amendments tabled this morning. There were 10 key areas, as well as many other substantive amendments which dealt with issues such as coercion, hearings and how they are to be conducted, provision of transcripts and many areas like that, but first I would like to highlight the 10 key areas.

First, we ask for reinstatement of an independent, arm's-length appeal board. All members who sat on the committee during the general government hearings heard time and time again from both tenant and landlord groups that this was a key component they wanted to see in the rent control legislation. I am very disappointed that there is no element of that in the minister's amendments.

Second, we are asking for reinstatement, expansion and strengthening of the Residential Rental Standards Board to ensure compliance with work orders in a timely and fair way.

Third, we are proposing a green amendment to encourage energy conservation and energy efficiency in apartment buildings. Because there was some doubt expressed about how we could do this without everything being considered energy-efficient and energy-conservation oriented, we did put in a provision that there would have to be approval by the Ministry of Energy prior to getting consideration.

Fourth, automatic hearings unless all parties agree to administrative review: This, quite frankly, was a backup amendment. If the minister had reconsidered her position and had an arm's-length, independent appeal board, I would feel much less strongly about having to have an automatic hearing, but if this is landlords' and tenants' only kick at the can, then they should be entitled to that hearing. It is the least we can do.

Fifth, elimination of the confusing double guideline for annual rent increases: As the minister mentioned, this came up constantly. The system put forward by the minister—I should say the ministry, as it was a different minister at the time—did not make any sense. Again, tenants and landlords agreed on this. Our proposal is somewhat different from the minister's in that we are suggesting that there be one annual guideline, that it be based on 60% of the rent control index and that non-eligible capital, ie, necessary capital, and eligible capital be separated.

The sixth provision is inclusion of non-profit housing under rent control, for two reasons: first, so the public sector would be operating on the same wavelength, the same playing field, as the private sector; and second, so that tenants in non-profit housing can have the same rights and protection as private sector tenants.

1550

The seventh issue is one on which the government and the Liberal opposition appear to agree. Our amendments are quite similar: A costs-no-longer-borne provision ensuring that tenants do not continue to pay for capital repairs in their rents after the items have been paid off. This is something we have been pressing for for some time. We introduced an amendment under Bill 4. We urged the minister to consider this amendment, so we are pleased to see that one in there.

The eighth amendment is to amend the controversial search and seizure provisions so that the director would initiate action if there are "reasonable and probable grounds that the act had been violated."

Ninth, to amend the carry-forward provisions so that landlords can spread the cost of their repairs over several years. On the surface it may appear that this is the second instance out of our 10 amendments where the opposition and the government have a similar amendment, but there is quite a difference. The Liberal caucus has recognized that there are unique situations where there should be a further carryover.

I will give you several examples. One is with older housing stock, 30 years or older, which needs significant repairs done and where three years is simply not enough of a total carry-forward to make the job work. The other example which I could give you is concrete restoration, where there are enormous costs involved. If the legislation remains in the present form, as suggested by the minister, what will happen is that tenants will have concrete restoration, underground parking garage repairs, going on for years and years because they will not be done at one time. I do not think that benefits either tenants or landlords.

The 10th amendment is to amend the title to be the Rent Review Act instead of the Rent Control Act, as this is not the real rent control the New Democrats promised and I do not think they should be trying to hide behind that name. Calling it rent control does not make it rent control.

On second reading on this bill our caucus indicated that we supported a number of things in principle. One was that there was a continuation of the cost pass-through mechanism

we felt was important in preserving our aging housing stock. The second was that it was a continuation of the rent review system. Government members may try to deny that, as they will, but this act has 130 provisions, 186 amendments, and I can tell you that this is a very convoluted system, far more convoluted than the Residential Rent Regulation Act, which this party, the NDP, constantly criticized as being too complex, that tenants and small landlords could not understand it. I can tell you, ladies and gentlemen, by the time you are through with this rent review legislation, nobody will be able to comprehend it.

I would like to comment for a couple of minutes on some of the minister's remarks. First of all, I can say that I am extremely disappointed with the amendments put forward by the government—99 amendments. The minister has stated clearly in her own remarks that most of them are of a technical nature, again adding to the lack of understanding by tenants and small landlords in particular and adding to the complexity.

There were only three amendments substantive enough, in the minister's view, to put in her press release. One of those amendments, that dealing with the guideline, would seem on the surface of it, at least to the media and to those who were not familiar with what exactly her amendment said, to imply that there was a tremendous victory by landlords. I do not think landlords are going to feel that way and I am not sure tenants feel that the fact that you have eliminated the confusing double guideline is going to be the heart and soul of what they wanted to see in this legislation.

One thing I have concluded after reading through the government amendments today is that the minister spent far more time listening to the ministry lawyers than she did to the tenants and landlords who appeared at our public hearings. I consider the government amendments that came out of that hearing process to be carrying on nothing more than a charade. The major recommendations by tenant and landlord groups were not carried forward. They are not in this legislation. I have mentioned a number of them in our amendments that do not appear, even though there was a consensus by tenants and landlords that they were what they wanted to see.

I guess it comes down to the fact that the government, from day one, has tried to rush through rent legislation without proper planning, without proper study and without proper consultation. It became a catch-22 situation. To score quick political points, they introduced Bill 4 after so much outrage from the landlord community, the building trades, from the financial centres and from many people across this province who felt the legislation was unfair and draconian.

The previous minister—I should be very clear—in a meeting I attended with tenants and landlords, and I think a couple of the people in this room were there, when urged by the tenants at that meeting to slow down the long-term rent plans, to put more study, more consultation into it, because this is a big project, it is complex legislation, his answer was that Bill 4 has created so much dislocation, so many problems of unemployment in the construction area, so much hostility by the landlords, "We have to rush through the long-term legislation because it's the only way we can have peace in the kingdom."

There is no peace in the kingdom, because the hasty, sloppy job is part of the reason why we have 130 clauses and 186 amendments. I guess the bottom line is that there are going to be many people disappointed with what is coming forward. Maybe I am jumping the gun. Maybe the minister will look at our amendments—I can tell you that they are substantive amendments—and maybe she will agree that a number of them, some of them, many of them, are reasonable and incorporate them, in which case I shall issue her a public apology and my thanks for being very reasonable on this issue. But the last year has not given me much hope in this regard.

I was hoping to be able to amend Bill 121 with all its flaws and to be able to go to my caucus and say, "I think we should support this legislation, notwithstanding the fact the government brought it in, notwithstanding that it is the NDP." I was prepared to do that. But if this government is not prepared to listen to what the people out there are saying, then I cannot see a way I can recommend that as Housing critic to the Liberal caucus. I guess when we start clause-by-clause next week we will find that the proof is in the pudding.

It is going to be very difficult to meet the minister's time frame, given the fact that she and her predecessor have said they want this legislation passed by the end of the year. After two months of stalling, when we could have been meeting as a committee and going through clause-by-clause, now we are in the unenviable position where we have approximately six weeks to take this through committee, through the committee of the whole House doing clause-by-clause on 130 clauses and 186 amendments, and give third reading prior to the House rising at Christmas. That is one of the answers we will be asking the minister for: Is her time frame affected? If not, is she going to be bringing in closure, which would be the epitome of arrogance?

To bring in closure after it was the government which week after week would not meet in committee when we could have been well along the way to a clause-by-clause analysis is the epitome of arrogance. I hope again that I am wrong. I am hoping that the minister will say, "No, we will take whatever time is necessary to make sure this bill is reasonable."

Those are my comments. I am not sure I can honestly say I look forward to working as part of this group for the clause-by-clause, because I am not overly optimistic about what the result will be.

1600

Mrs Marland: As you are aware, Mr Chairman, I am newly appointed in this Housing portfolio for our Progressive Conservative caucus.

The Vice-Chair: We offer our congratulations.

Mrs Marland: I look forward to working with this committee in a constructive fashion to try to make a silk purse out of a sow's ear. If this bill requires this number of amendments by all three parties, then I think it is a pretty significant indication about the drafting of the bill, the inherent flaws in the bill and the lack of meaningful direction.

I do not think I have ever seen a bill brought to this Legislature with 91 government amendments to it. If it is that bad, it begs the question, why is it not withdrawn and totally redrafted? If that were the case, it might even have been able to reduce the number of amendments by our caucus and the Liberal caucus.

Having said that, I also want to say at the outset that I would like to publicly thank the previous Housing critic, the Housing spokesperson for our caucus, Mr David Tilson, the member for Dufferin-Peel, who did sit with you throughout the public hearings and will be sitting with us when we get into the clause-by-clause work next week. Mr Tilson has done a superb job, is very knowledgeable on this legislation and I know will continue to serve the people both in his riding and in Ontario by his excellent representation on this committee and his knowledge of this legislation.

Once again, this government has failed to recognize the needs of the rental housing industry. The amendments tabled here today leave no doubt in my mind that the government has been very selective in what it has actually heard of the presentations to it during the last 14 months.

While acknowledging that in order to have a simpler and fairer system one guideline is the most beneficial, they have still failed to recognize that the rent control guideline set at 55% is adequate only for those complexes constructed after 1975. The older stock will still be penalized by a guideline set at 55%. Not even three years of carry-forward will be adequate to meet the costs of maintenance and repairs required for these buildings.

Most certainly it is encouraging to see that the minister has abandoned the notion of two separate guidelines for large and small buildings and has extended the carry-forward for all buildings to three years. Yet that is where their enlightenment has stopped. The selectivity they have shown in amending this legislation is astounding. The minister, by introducing the costs-no-longer-borne clause in the manner in which she has, added dramatically to the bureaucracy needed to administer this legislation.

In fact, for a piece of legislation which was to have been simpler and fairer, the minister has taken this government further and further away from this goal in a number of the amendments tabled today.

In 1989 it cost $40 million to administer the rent review system. Several weeks ago during estimates the minister informed us that the administration of this bill would have a mature cost of $33 million per year. I wonder how she can stand by those figures and tell us that the administrative costs for this legislation will be a decrease in comparison with the previous legislation.

I am sure the minister will defend herself by declaring that she has cut bureaucracy by eliminating an appeal process and the standards board. In my opinion, and that of many others, the minister has made the wrong choices in cutting bureaucracy. The manner in which costs no longer borne has been introduced will not only create a horrendous administrative backlog, but will also ensure that tenants will never be secure in knowing from year to year exactly what their rents will be.

As a result of this amendment, rents will fluctuate on a continual basis as old cost increases are dropped and new ones are factored in. While tenants are being protected from high increases, they are certainly not being protected from confusing fluctuations which I would humbly suggest will provide a personal budgetary nightmare for people on fixed incomes.

The minister has also failed to adequately assist those caught in the Bill 4 freeze. I can assure the minister that I will be introducing an amendment which will rectify this situation.

I am also alarmed that instead of correcting the automatic 2% dissolution in the amount which landlords will be allowed to carry forward, the minister has more firmly entrenched this punitive measure. Time and again it was pointed out that this clause seriously impeded a landlord's ability to undertake substantive capital repairs, yet this government has failed to hear that the maintenance standards of buildings would be seriously affected by this.

No attempt was made to address the concerns surrounding the elimination of the appeal process except to give the chief rent officer jurisdiction to review orders in section 89.

It also seems the government is in favour of retroactivity only in certain areas. They fail to extend to landlords the same options which they extend to tenants. The minister has ensured that even former tenants are now able to file for rent rebate in the incidence of discontinuance or reduction of service.

I was pleased to note, however, that the minister has considered the issue of work orders and timing. The amendments in this area are certainly required.

As well, I note with interest the change in terminology for rent penalties to "an order prohibiting a rent increase." Has the ministry finally realized that not all landlords need to be treated like criminals?

The final amendments I will touch upon today, which the minister has introduced, are to the section dealing with search and seizure. A cursory examination of these amendments indicates to me that the power given to inspectors in this section still far exceeds those granted in the RRRA. I hope the minister is open to further discussion and amendment in this area.

Having only had a few short hours to study the minister's amendments, that completes my comments for this time. I look forward to some very healthy, constructive discussion and debate on this bill in the coming weeks.

1610

Mr Chairman, I would like to take a little further the comment of the member for Eglinton. I know this agenda today is just dealing with our statements, but as the minister will probably not be able to be with us every day—I do not know what your schedule is, Madam Minister, but how do you see us being able to progress through these almost 200 amendments, and what is your proposed time schedule for this legislation? Do you see yourself invoking a closure motion at some point in order to meet a particular time line which your government hopes to achieve with third reading and final declaration of this bill?

Hon Ms Gigantes: Is it appropriate for me to respond?

The Vice-Chair: If you wish to respond, I think the committee would find that acceptable.

Hon Ms Gigantes: On the question of timing, it is our hope indeed to have the legislation passed by Christmas and certainly ready to swing into operation by April. That will give us time from the time of passage to the proclamation in April to make sure all the amendments that have been made can be incorporated into the procedures that will be prepared for the administration of the legislation.

If we were to go beyond Christmas, that would mean there would be a delay in implementation of the legislation. As you understand, that has implications, not just for tenants but for landlords who are interested in seeing those sections of the bill dealing with the transitional period between the pieces of legislation brought into effect. So I would remind you that there is good reason for us to proceed in an orderly way to try and deal with the legislation and have it ready for passage by Christmas.

On the second point, I think it is probably worth asking Colleen Parrish to say a word, Mr Chair, on the question of what we have been calling technical drafting amendments, because I think you will understand that this is a major piece of legislation. Certainly in my experience it is not at all off the norm to have a great many amendments that deal with fairly minor matters. They will not, I think, cause great debate. In fact, contrary to what was suggested by the Liberal critic, they will lead to clarity in the legislation. It is certainly our hope and intent to do that.

Ms Parrish: I would say two things. During the course of hearings over the summer months, a number of groups came forward with drafting and technical amendments to the bill including, for example, Fair Rental Policy Organization of Ontario and several legal aid clinics. Where possible, we tried to accommodate those amendments and, indeed, members of the standing committee commented that they found certain parts of the bill unclear. Many of the technical amendments were in response to people's points around how the bill was being drafted. They were fearful, for example, that certain calculations that we said were our policy intent would not, in fact, be supported by the courts. There was a concern that this was not clear or that was not clear.

We felt, under the circumstances, that wherever possible we would try to make those kinds of clarifying amendments, although I freely admit that it is sort of an occupational hazard when you are a lawyer that you see fascinating technical issues. But you try to keep those to a minimum, and many of these are genuinely trying to respond to concerns that people had, not about our policy as much as whether the drafting fulfilled our policy.

We recognize there are significant numbers of amendments and that sometimes makes it difficult for members of the committee to see the bill as an integrated whole. One thing we thought we would do that might be helpful to the committee is, at ministry expense, prepare a reprint of the bill with the amendments integrated directly into the text so that members of the committee can see what the bill would look like with the ministry amendments integrated directly into the text. That is sometimes done, as members probably know, as you are experienced legislators, with lengthy bills to see how everything works together as a whole. We are hoping that will be available next week to assist the committee. I know the clerks usually prepare a culmination of amendments as well.

The Vice-Chair: Mrs Marland has about three minutes left in her time, and that is the time that we have been using. So, Mrs Marland, do you have anything further?

Mrs Marland: I do not have anything further. I am happy to give my three minutes to the Liberal critic.

Ms Poole: Thank you, Mrs Marland. I appreciate that.

There are two points. One, if the government is incorporating its amendments into the legislation in written form so it will be easy to understand—I have seen this before and I have no problem with it, but if it is indicating any certainty that these are the only amendments that are going to be passed, perhaps we can include the Liberal and Conservative amendments at the same time so that we can truly work with an act which is reflecting what all three caucuses are looking to change. That will be one suggestion for you to mull over before next week.

The second point is, the minister has indicated that she has remained firm in her plans to pass this legislation by Christmas, which I cannot believe, but that is what she plans to do. I point out for the committee, that means five Thursdays before mid-December, two hours in the morning, two hours in the afternoon, a total of 20 hours. That is if it does not even go back to the House till mid-December. What type of conversation can we have? If we are not going to discuss the tangible amendments to this bill, if it is just going to be a waste of our time, then I would prefer the minister right now, if not today, then next Thursday at the beginning of clause-by-clause, to tell us what amendments she is prepared to entertain and what she is not and save us all a whole pile of time, energy and frustration in going through a charade for the next five weeks and then having closure and the Liberal and Conservative amendments going down the tube. Save us all a lot of time.

The Vice-Chair: Thank you, Ms Poole. I think Mrs Marland's time has expired.

Minister, I would permit a response, if you wish.

Hon Ms Gigantes: I will read with interest the proposed areas of amendment that have been suggested by the Liberal critic and the critic for the Conservative Party and see how close they might come to some of the ones we have been suggesting or whether they are suggesting areas of amendment which we would think useful, and I would be pleased to indicate that next week. That would be no problem at all.

I again suggest that to give full discussion to amendments that have been suggested in the areas where the two critics have suggested amendments, along with those we are proposing which are of a similar nature, of a substantive nature really, we could do a lot of discussing about those in the time that you have indicated, because there are not that many which are of a really substantive nature.

Ms Poole: Maybe not in your amendments, but they sure are in mine.

Hon Ms Gigantes: I agree that you have put forward amendments of substance. Do not read me wrong on that. But I think we will have plenty of time to discuss the subject area there in the time you have outlined as available for the committee to do its work, because, as I suggest, most of the amendments we are putting forward are going to be very cut-and-dried technical clarifications, drafting clarifications and matters of wording. They are not going to be questions of substance. As there is a good deal of overlap in the areas in which we are making some amendments, and either of the critics are suggesting amendments, obviously we are going to be dealing with areas of substance in a fairly limited number of the areas. I think the time we are considering now for our working committee is not too tight. I would very much hope we will be able to have good discussion around these areas. I do believe that is possible. I would certainly be glad to indicate which ideas that have been brought forward we might consider at this stage.

1620

One other thing the Liberal critic has suggested, that in effect we be prepared to incorporate amendments to the bill in three versions, would delay printing of the bill. I do not know whether it has ever been done before. I have never seen it done before. But it would certainly delay printing of the bill with the large number of technical amendments and drafting amendments which we have suggested, because we would have to then wait for your drafting to come forward, and all that kind of thing. In fact, I do not understand it as well as Colleen would. Maybe you can help us out at this point.

The Vice-Chair: I think I have been most lenient in this discussion. My instructions from the subcommittee were just to allow statements from the two critics and from the minister. I think we have had a useful exchange.

Hon Ms Gigantes: But would it not be helpful to kind of clear up our procedures here?

The Vice-Chair: I can do things only with the unanimous consent of the committee.

Ms Poole: Agreed.

Mrs Marland: We agree. We might as well do it now while the minister is here.

The Vice-Chair: Fine.

Hon Ms Gigantes: Perhaps Colleen could make a comment on the bill-printing question.

Ms Parrish: I have to say that I have worked with reprinted bills several times. I have never seen one that had sort of, here is one section 20, and here is another section 20, and here is another section 20. To be blunt, I just do not think it would help understand the bill.

The other concern I have is that we need about four days to print, and I understand that not all of the amendments were tabled today, actually; there were still some amendments that were to come? Am I wrong?

Ms Poole: All except one.

Ms Parrish: That is also another consideration. I just want to be blunt that it be a practical way of reprinting the bill, especially as all of the amendments have to be translated into French.

Ms Poole: I have given the clerk a number of copies of an explanation of the Liberal amendments which may help you decipher the rationale and intent of the amendments, as long as members will be forbearing. There are four or five typographical errors, mainly because it was done at 7:30 this morning in quite a rush and we did not even have time to proof it. As long as you are being forbearing about that, we would be happy to provide you with it.

The other point I wish to make is that with 186 amendments, presupposing it took three minutes per amendment to read into the record and have discussions, that would be 10 hours of the committee time, half of the allocated time between now and mid-December, presupposing this committee still had involvement with this bill till mid-December. That is half our time allocated just to read it into the record. I would put that forward for the committee's information.

Hon Ms Gigantes: I certainly would be willing to try and check out the feasibility of having different versions of amendments printed in one legislative format, just to see whether it is technically possible and whether we can do it in time to be useful to this committee. I would be glad to report back on that.

The Vice-Chair: Thank you for that undertaking.

Mrs Marland: I am getting a little concerned about wasting government money on what we are discussing right now. I think it would be helpful if with every set of amendments we have the explanation on that amendment. I know ours are done that way.

Ms Poole: I do not believe they are, actually. I do not believe there is anything on your amendments.

Mrs Marland: All right. I have a copy with what the impact of that amendment is on the intent of the bill or the section.

The Vice-Chair: Maybe you could be so good as to provide that to the committee.

Mrs Marland: What I am suggesting is, I am sure that all three caucuses have that, and rather than go to this expense that we are talking about, I think it makes more sense if we have the amendments in front of us and the definition or the description of what that change means. It is usually a sentence or a paragraph. If that is available, it makes sense for us to share that, if we want to try to expedite the process.

I just want to be sure, Madam Minister. I think I heard you very clearly that you want this bill passed before Christmas. Are you really saying that if we are not finished the amendments in our next five weeks of regular sittings, which is going to be somewhere between 20 and 25 hours—if we got started at 3:30 and finished at 6, it is two and a half hours in the afternoon—in order to have the bill passed, then the bill would just have to move to the House for third reading?

Hon Ms Gigantes: No, I have not attempted to lay out any kind of process here that would cut off avenues of work. If we start in and each of us can identify those amendments quickly for which there is no real need to

have long debate, and then focus our attention on those areas of work where there is real substance involved and some legitimate contention, I think we can probably focus well enough to get it done. I do not want to suggest that "if this, then that," and "if not this, then not that," and so on at this stage. I think we should just set to it with a will and do our best to do the job.

Mrs Marland: I do have a copy of the explanation of the Liberal amendments. If we could have the same from the government—

The Vice-Chair: The government amendments have an explanation on the bottom of them.

Hon Ms Gigantes: On each page of the amendment there is an explanation of the amendment, and you will find it is easy therefore to tell if they are just drafting changes.

Mrs Marland: Okay. We will furnish ours the same way, and that would be helpful I think to everybody.

Hon Ms Gigantes: Do I understand then that we have agreement to move to a printed version of the bill with the amendments inserted, or do we want to proceed without that? We should make a decision.

Mrs Marland: If that is going to be an expensive process—

Hon Ms Gigantes: You see, once the bill is set up, the question of inserting the amendments I think is not a great deal of expense. These will be working documents that we would use.

Ms Poole: On that point, it would seem to me to make a lot of sense to do the pre-printing. For one thing, because they are governments amendments there is some certainty that they will be incorporated in the final act, so you are just getting a pre-copy of what hopefully is not the final act, but certainly the government's final amendments. I cannot see that it is going to be that expensive a process and it would probably make life much easier.

Hon Ms Gigantes: If that is agreeable with the Conservative critic.

The Vice-Chair: Is that agreeable with the committee?

Interjection: Yes.

The Vice-Chair: That is agreeable.

We have completed the work of this afternoon. I would remind committee members that we have a formidable task before us. We have a complex bill with some conflicting views and I think we will have to work very hard over the next few weeks to accomplish what needs to be accomplished. I look forward to seeing everyone next Thursday morning at 10 o'clock sharp so that we can get on with the work of the committee.

Ms Poole: Just one final motion, that at 10 o'clock and 3:30 on every day that the standing committee on general government is meeting we start sharply at those hours, regardless of whether all caucuses are represented.

The Vice-Chair: Is there agreement to that?

Hon Ms Gigantes: There is unanimous support.

The Vice-Chair: There is unanimous support of the committee. The Chair will recognize a quorum at 10 o'clock and at 3:30, provided the routine proceedings of the House are finished, for this committee to begin work.

The committee adjourned at 1631.

CONTENTS

Thursday 31 October 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1685

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Thursday 7 November 1991

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Rent Control Act,1991

Chair: Remo Mancini
Clerk: Deborah Deller

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

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Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 7 November 1991

The committee met at 1020 in room 151.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Suite de l'étude du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: The standing committee on general government is called to order. I would like to welcome all the members here this morning. We would also like to welcome the minister, the Honourable Evelyn Gigantes, who will be joining us for clause-by-clause hearings of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

As all members will know, there are substantial amendments from the government, from the official opposition and from the third party. We will need everyone's co-operation to ensure that we can proceed in a somewhat orderly fashion.

I understand all the government amendments are already in the reprinted version of Bill 121. That is the bill we will be using. I further understand that the amendments from the opposition parties are in our black, substantially thick file folder. I ask all members to please leave their black file folders here over the lunch hour as other material has to be inserted. We can pick them up early this afternoon when we reconvene.

I would also like to ask the committee members for unanimous consent to stand down section 1 of the bill, which is the definition section, as amendments we will be dealing with may affect the definition section and I would like to come back to that later.

If I can get unanimous consent for that, I would like to proceed.

Mr Tilson: Before you proceed on that, I find the paperwork that has been presented to us the most overwhelming package I have ever seen in my short stay here at Queen's Park. I see amendments that appear to be put forward by the government that exceed the number of sections in the bill, which I find absolutely appalling. Obviously the bill has not been properly researched. I would therefore move, because of the extensive revision of the bill—the bill appears to have been completely rewritten—that this committee make a recommendation to the House that the bill be withdrawn and that the ministry prepare another bill for consideration.

The Chair: Mr Tilson has moved that the legislation before this committee be withdrawn and that the committee recommend that the minister prepare another bill.

Mr Tilson: If all the amendments pass, this will be a completely different bill than what went around the—

The Chair: You are asking that the bill be withdrawn and the government produce another piece of legislation.

Mr Tilson: Yes.

The Chair: Any discussion on Mr Tilson's motion?

Ms Poole: The Liberal caucus shares the concern of the Conservative caucus over this bill. We have some 90 amendments by the government, over 60 by the Liberal Party and I believe 26 by the Conservative Party. The bill itself has 130 clauses, only one less than the Residential Rent Regulation Act that was so roundly criticized for its complexity.

It is clear that the bill we are looking at right now, the one that has been reprinted with government amendments in it, is not the one we took to public hearings. Many of the amendments are technical, but certainly many of the substantive recommendations made by people around the province are ignored and are not in this reprinted edition. I really believe the government should go back to the drawing board and do what it said it was not going to do from day one: have a lengthy, meaningful consultation and take time to actually do some empirical studies which will back up some of the claims that have been made.

The building operating cost index formula is a perfect example where we had reliance on a Royal LePage study which was not formulated in the first place to take a look at the formula. That was not the purpose of the study. We had it updated with Royal LePage being given one week to do an updated study. It became obvious during the hearings that the evidence was meaningless and yet the government is relying on that to set the guideline formula.

It just does not make any sense. We need to have some accurate, empirical studies done so that when this legislation goes out it is good legislation. It is extremely difficult right now, it is a patchwork quilt. We will support the Conservative motion.

Hon Ms Gigantes: I will be very brief. To begin on the question of the guideline, it is, as every member of this committee is aware, under consultation right now with people interested in this matter around the province. That will be an extensive consultation. It will be reported back. I am sure you will have specific comments to make at that time.

If we leave that matter aside and move to the main matter of the motion, the contention is that the legislation is too long, that there are too many words in it, too many clauses, and that it is therefore not simple. The two things are not necessarily self-supporting or mutually supporting. The concepts in this bill are fairly straightforward. They are laid out in as clear language as possible. As the opposition has acknowledged, most of the amendments put forward by the government are technical in nature. If we are talking about substantial changes that will affect the interests of parties governed by the bill, we will be looking at a maximum of seven to 10. I have not done a specific headcount

of the amendments that way, but I think the opposition will have to acknowledge that.

I think there is good reason to proceed. I urge that we do so.

Mr Mammoliti: Maybe I just do not understand the motion, but I would like you to rule on whether this motion is appropriate in terms of our last meeting when we agreed to print the bill and put the amendments in the bill. I could be wrong, but I understand the motion to read that we scrap it now. Frankly, we agreed to it at the last meeting. I am not sure whether the motion is in order.

The Chair: It is my view that the motion is in order. I have further checked with the table officers and my view that the motion is in order is supported.

Ms Poole: In reference to the minister's comments, I would like to make a couple of points. She has mentioned the consultation about the guideline. I point out to the minister that the formula for the guideline is set out in legislation; it is not set out in regulations. The number I am talking about, the one that started out as 50% in large buildings and 66⅔% in small buildings, is now 55% in all buildings. That is in the legislation. The minister can do all the consultation she wants to, but if we pass that she would need a specific amendment to this act at a later date to change it. So it is consultation after they have embedded it in stone, which does not make any sense.

When she comments that the opposition is criticizing it for having too many words and too many clauses, she is missing the point we are making. The government made a commitment several years ago when it was an opposition party. It said, "We want legislation that is comprehensible and understandable by tenants, by small landlords, by anybody dealing with this legislation." What we have is not a comprehensible document. Many of the technical amendments will just have people scratching their heads and saying, "What is this all about?" We are saying, "Go back to the drawing-board," simply because it is a patchwork quilt. It has been pieced together, papering over the cracks. Quite frankly this is not the comprehensive legislation tenants and landlords in this province were led to expect we could have. It is not comprehensive, it is mainly a bunch of pieces of paper stuck together and I think it is just going to lead to chaos.

1030

Mr Tilson: I think the snip and paste position of Ms Poole is accurate. I must confess that as a new member it is discouraging when I see the process that has been going on, particularly in this committee in the last number of weeks, particularly during the registry office closing issue and the attitude of the government with respect to this committee. Moving into this piece of legislation, I understand that the government—the previous minister and I am sure this minister—and all of us are concerned about the state of housing in this province. I understand that. We are all united on that issue. I think it is the process that is one of our major disagreements, as well as the philosophy.

Normally when one is uncertain how one is to go about it, and the government has talked about this in the past, you have a discussion paper or a policy paper that could be sent to a committee, could be dealt with in committee of the whole House and distributed to interest groups. On this whole area, whether it is the Residential Rent Regulation Act, Bill 4 or this Bill 121, I see that a lot of the issues that need to be discussed and explained to us need to be explained by consultants, by specialists. Life has got so complicated that only consultants—we have tenant groups and landlord groups. The average tenant and landlord has no idea what is going on. We send out a bill. We go around the province. It is a very expensive process. At the same time, within that process, we have a green paper distributed by the Minister of Housing.

The Chair: Order, please. I am allowing as much latitude as I possibly can and we are going around now for the second time. It is not my intention to try to curtail debate, but I am going to ask all members to try not to relive everything this committee has done over the past 14 or 15 months, but to try to speak specifically to the motion that Mr Tilson has made. With some of the discussion I am hearing this morning maybe the latitude is getting wider and wider. I ask for the co-operation of all members so we can function efficiently and appropriately.

Mr Tilson: Mr Chair, I appreciate your concern, although that is the very point I have, that we have gone out and done all these things. The public has the impression that this is the legislation one is going to deal with. When you have a complete change to a piece of legislation, when I have a mound of paper before me in a black binder and heavens knows what else is going to come to me, it gives me great concern. As a member, it gives me great concern when I and this committee have spent a great deal of time going around the province dealing with specific legislation and it is now before us in a completely different form. That is unfair to all the members of the public who appeared before us.

If the ministry has listened to the public, and I hope that is the position taken by the minister, that we have listened to the public, now we are putting forward change as opposed to saying: "Thank you very much, members of the public, we have reconsidered our position. We are going to withdraw the bill. We are going to make it clearer for you. We are going to introduce another piece of legislation." That is the intent of the motion, so that we do not mislead the public of Ontario.

Mr Marchese: I hope, Mr Chair, that I am not reliving the land registry meetings where for three meetings we discussed similar things.

The Chair: No, any debate on the land registry meetings will be ruled out of order immediately.

Mr Marchese: I understand that. I appreciate the comment. The motion that is before us is really not very helpful; that is obvious to me. It is too dismissive and in that way it is not very helpful. To say it is not comprehensive, to say it is too technical, does not really assist us in this discussion. It would seem to me that if the members opposite to me want to object to particular clauses, they can do so. I would be helped by a knowledge of what they feel is too technical, that we cannot understand, that we need to be assisted to understand, or if it is not comprehensive

enough, by their making the appropriate suggestions to make it more comprehensive.

As a process, if we deal with the clauses and I hear the objections, I will have a better sense of what they are talking about, but the motion as it is does not help any of us to proceed in a way that is helpful to all of us here.

Mr Tilson: Because the bill has changed substantially—and because we have gone around asking the public to respond to one particular piece of legislation—it is fine for Mr Marchese to say we can make a response. Why did we go around to these cities all over the province getting representations on a completely different piece of legislation? That is the intent of the motion.

The Chair: I am going to ask the clerk to read the motion into the record before we call for a vote.

Clerk of the Committee: Mr Tilson moves that the committee recommend that because of the large number of amendments tabled here, the minister withdraw the bill and introduce new rent control legislation.

The Chair: All in favour of Mr Tilson's motion?

Mr Brown: Recorded vote.

The Chair: Mr Brown has asked for a recorded vote.

The committee divided on Mr Tilson's motion, which was negatived on the following vote:

Ayes–3

Brown, Poole, Tilson.

Nays–5

Abel, Coppen, Mammoliti, Marchese, Murdock, S.

Ms Poole: On a point of information, Mr Chair: The new package of Liberal amendments has just been distributed. We had to change a number of them because of the government amendments so that our package corresponded with numbering and other things. There are two substantive changes I would like to draw to your attention. First, I mentioned last week that we had an amendment regarding the standards board, to re-establish the standards board to strengthen it and give it more jurisdiction. That is in this new package distributed this morning.

On the other one, you will see that the first amendment refers to "board," meaning the Rent Review Appeals Board. This will replace an amendment which we tabled last week which says "board" means the Rent Hearings Board. Just briefly, when I was reconsidering my amendments, I realized that since we are asking for hearings to be reinstated as well as the appeals to be reinstated, to call it the hearings board, as the old appeals board was called, might be confusing. This just clarifies that when we are talking about the "board," we are referring to the appeals board.

The Chair: I need unanimous consent from the committee to stand down section 1. All in favour? I thank the committee for your support in that matter.

Agreed to.

Section/article 2:

The Chair: We are going to immediately move to section 2 of the bill. Any questions, comments or amendments to section 2?

Hon Ms Gigantes: If I am looking at the right section, this relates to matters that were raised, I believe, by the Federation of Ottawa-Carleton Tenants Associations during hearings in Ottawa. Am I correct on that? I have the wrong section.

The Chair: Subsection 2(1) reads, "This act applies to rental units in residential complexes, despite any other act and despite any agreement or waiver to the contrary."

1040

Ms Poole: I am trying to locate the amendment in question, if I could just have your forbearance.

Hon Ms Gigantes: There are no amendments on this one.

Ms Poole: So this is just the straight part of the bill as it was originally?

The Chair: Yes. Shall section 2 in its entirety carry?

Section 2 agreed to.

L'article 2 est adopté.

Section/article 3:

The Chair: Are there any comments, questions or amendments to subsection 3(1)? I am going to do every subsection individually so we do not get confused.

Ms Poole moves that clause 3(1)(a) of the bill be amended by striking out "bed and breakfast establishment" in the last two lines and substituting "bed and breakfast vacation establishment."

Ms Poole: There is a concern that if the wording is left in its present form, some rooming homes may be considered as bed and breakfast or certainly may try to interpret themselves as being bed and breakfast. Just to make it very clear that the government's intention in this regard related to vacation situations for bed and breakfast and not rooming house situations, we have suggested this amendment.

Motion agreed to.

Ms Poole: Under clause 3(1)(b), a "vacation home for a seasonal or temporary period" was to be "not exceeding four months." A number of people have commented that there are situations where a home might be used for a vacation period, particularly with our Canadian seasons, for a period of six months, yet it would not qualify. Is there any particular reason the four-month period was chosen?

Ms Parrish: I do not think there is any magic to the four months per se. I think it is just trying to get across the fact that this is intended to be accommodation of a temporary nature. I guess once you get past six months, it seems like the place is occupied for most of the year. Four months is what the current statute says as well, so there is some merit in simply carrying that forward, because that is what everybody has learned. If you make these minor changes, then people have to relearn another rule. I think all the four months is trying to do is to say there should be some reasonable period. For example, you should not have a situation where senior citizens go to Florida for one month and their accommodation for the remaining 11 months ends up not being covered by rent control. So it is really trying to have some period of temporariness. I think

a period of more than six months would be problematic, but between four, five and six, it is really a question of—

Mr Tilson: I would also assume that the general intent of clause 3(1)(b) is to exclude some mobile home, trailer park—I am still not clear what term I should be using, but the trailer park mobile home. I assume the intent of this section as well is to exclude those types of places.

Hon Ms Gigantes: No, that is not the intent in this section.

Mr Tilson: I think you have done it. I think you have excluded, which I congratulate you on. Since I am taking the position that it is for four months—because it does in my belief support the mobile home vacation, four months is not long enough. I believe the whole mobile home topic should be out of the bill, and it is in the bill.

The Chair: I am not sure if you are in order at the present time, Mr Tilson.

Mr Tilson: With respect, I think I am, because I believe clause 3(1)(b) deals with mobile homes. The minister can say all she likes, but I will bet you she has created a legal problem.

The Chair: Thank you for your opinion, Mr Tilson.

Hon Ms Gigantes: It deals with all homes, all residences.

The Chair: Any further questions, comments or amendments to 3(1)(b)? All in favour? Opposed? Shall clause 3(1)(b) carry? Carried.

Clause 3(1)(c): Any questions, comments or amendments? Seeing none, shall 3(1)(c) carry? Carried.

Clause 3(1)(d): Any questions, comments or amendments? Seeing none, shall 3(1)(d) carry? All in favour? Opposed? Carried.

Clause 3(1)(e): Any questions, comments or amendments? Seeing none, shall clause 3(1(e) carry? Carried.

Clause 3(1)(f): Any questions, comments or amendments? Seeing none, shall 3(1)(f) carry? Carried.

Clause 3(1)(g): Any questions, comments or amendments?

Mr Tilson: We had originally tabled an amendment which may now be changed as a result of the numbering system changing. I understand the numbering system has changed.

The Chair: If you have an amendment, I would go forward with making the amendment, Mr Tilson.

Mr Tilson: It is substantially different than the existing 3(1)(g).

The Chair: Maybe legislative counsel can help us.

Mr Tilson: Has the numbering system changed?

Ms Baldwin: The numbering system of this has not changed. Looking at it, my assumption is that what you are proposing here is an extra clause, in addition to the one that is in clause 3(1)(g) in the bill, so if we were to number your amendment 3(1)(g.1), we would be home free and it could be considered right after (g).

Mr Tilson: Thank you very much.

1050

Mr Mammoliti: I am sorry; I guess I am assuming that Mr Tilson has an amendment to this. I just cannot find it; that is all. It is not in the book.

Mr Tilson: I do not wonder, George, there is so much paper here.

Mr Mammoliti: Most if it is your amendments. Do not complain about paper when most of them are yours.

The Chair: As I said earlier, we have quite a few pieces of paper. We will go through this meticulously to make sure that we are all at the same point. Seeing no questions, comments or amendments to clause 3(1)(g), shall clause 3(1)(g) carry?

Mr Tilson: On a point of order, Mr Chair: To the solicitor, I just ask your assistance. I think you have seen my amendment and the intent of my amendment. Are you saying my amendment is separate from clause 3(1)(g)? I believe it is.

Ms Baldwin: That is correct.

The Chair: Shall clause 3(1)(g) carry? Carried.

I believe Mr Tilson has a new clause.

Mr Tilson: I hope all members have it. If members do not have the amendment I wish to make, I am sure we could make copies available.

The Chair: Mr Tilson moves that subsection 3(1) of the bill be amended by adding the following clause:

"(g.1) living accommodation in a new residential complex if the building permit for the residential complex was issued on or after the 6th day of June, 1991."

Mr Tilson: The intent, of course, that the legislation has proposed—at least from the original Bill 121, and I assume that in the massive amendments it is still the same—is that buildings should be exempt for the first five years. That is what has been put forward. Our party's position is that all new buildings should be completely exempt from rent control indefinitely, and that is the intent of it.

Specifically, if this clause is not passed, then presumably the government has not responded to the submissions that have been made throughout the public hearings in a request that the five years is too short. In many cases, a building permit is issued, and because of regulations, because of problems, it takes considerable time to put up residential complexes. Even with non-profit housing, one sees how long it takes to put up non-profit housing—any type of building. That is the first submission I would make.

The second submission would be that there is no logical reason to have rent controls on new buildings, particularly if the government is honestly trying to encourage developers, investors, whoever, to construct new buildings, because now we are saying, "If you're going to put up new apartment buildings, we'll give you five years and then we're going to put on rent controls."

Why would anyone do that? I submit that is one of the reasons why there are no new apartment buildings of any substance being constructed in the province. There is lots of non-profit housing. I have developer after developer coming into my office. They want a piece of the action. It is a gold mine for them. They realize that it is financially

silly to go out and raise money to build new apartment buildings, but it is not financially silly for them to get into non-profit housing. Hence, when you see the massive regulations that are being put forward with rent control in Ontario, there are no new buildings being constructed.

Of course the members on the government side of the committee will be sure to pounce on me and say, "There's a recession going on," and they will probably give their free trade argument, and God knows what else they will say. That is all fine and good. That is a standard pat argument they use on everything.

However, I am sure even they have had individuals come to their constituency offices, people who are interested in constructing residential accommodation in their particular ridings, aside from the submissions that have been made throughout these hearings, that there must be some strong encouragement to get the housing market back on track again. Non-profit housing is not the answer. The government cannot afford to simply take over the housing industry. That is what the plan appears to be, from reputed statements from the Premier at least.

Therefore, that is the general intent of my submission: First, there is no logical reason to have rent controls after five years, and second, there needs to be some very strong encouragement to the business community to start constructing residential accommodation again.

Ms Poole: I think I have solved the problem of why this was confusing. Apparently this Conservative motion was not in the package they tabled last week but has been included as a new motion today. If anybody is looking, it is in package 172 on your desk. That was a facetious comment. Please do not look for 172.

Mr Tilson: That is all right. I have not read yours as yet either.

Ms Poole: I have read yours, Mr Tilson, this just was not included in your package last week.

Mr Tilson: I am sorry. All right.

Ms Poole: The other thing that puzzled me somewhat was why it would be included here in the clause that deals with "short-term living accommodation provided as emergency shelter," particularly since we have two sections later on—I think they are subsections 3(5) and 3(7)—dealing specifically with exemptions. The Liberal Party has proposed an amendment that relates to this issue in the sections later on, and our position is that it should be a 10-year instead of a five-year exemption, simply because the five-year exemption does not allow the landlord to get to a break-even point, so it would not be an incentive to build.

The problem with Mr Tilson's amendment is that he is saying all buildings should be exempt for ever. It would seem to me much more logical to have a trial period where we see how it goes, where we see whether there has been any incentive to build by putting in this exemption. While we appreciate the spirit of it, Mr Tilson, we will not be supporting this amendment.

Mr Mammoliti: Mr Chair, I would perhaps like you to rule on this. I am not too sure whether this amendment is legitimate or not. I understand that amendments are to amend either the clause or the subsections, not to take it over completely. It seems to me this wipes it right out. Perhaps you can rule on that. I do not know.

The Chair: Thank you, George. How did I know you were going to do that? The motion is in order.

Seeing no further discussion, all in favour of Mr Tilson's new clause 3(1)(g.1)? Opposed?

Motion negatived.

1100

The Chair: Moving along to clause 3(1)(h), questions, comments or amendments? Shall clause 3(1)(h) carry? Carried.

Clause 3(1)(i), questions, comments or amendments? Seeing none, shall clause 3(1)(i) carry? Carried.

Clause 3(1)(j). Shall 3(1)(j) carry? Carried.

Clause 3(1)(k). Shall 3(1)(k) carry? Carried.

Moving to subsection 3(2), can we look at 3(2) in its entirety, paragraphs 1 to 4? I will give members a moment to look at that.

Ms Poole: Might we have a moment? I am trying to deal with the act as we knew it up until this morning, plus the new revised act, plus my amendment on this section, plus the government's amendment on this section, at the same time.

The Chair: That is why we are going to go through this subsection by subsection. Since this section has been amended by the government, you might want—

Hon Ms Gigantes: Do you want to have the whole thing read?

The Chair: Maybe a brief explanation.

Mr Tilson: Mr Chair, I need your help on the process.

The Chair: Absolutely.

Mr Tilson: I walked in this morning with what I thought was Bill 121. I now have a new Bill 121. Are some sections in here the government amendments—as I understand it; I was not at the last meeting—in the new Bill 121?

The Chair: All the government amendments are in the new Bill 121.

Mr Tilson: All right. Have they been identified as such?

The Chair: Do you want to have them all flagged as we go through? Is that what you are requesting?

Mr Tilson: Yes.

Hon Ms Gigantes: They are flagged, Mr Tilson. If you take a look at the top of page 11 in the printed bill, you will notice that there is an arrow indicating amendment. It notes at the top of page 11 the beginning of the amendment and at the top of page 13 the end of the amendment.

Mr Tilson: Just so that I understand it, the entire subsection has been amended. Is that correct?

The Chair: It appears that way, Mr Tilson.

Hon Ms Gigantes: It has.

Mr Tilson: I hope the minister will explain what she is doing.

The Chair: We will give the minister a chance to do that.

Hon Ms Gigantes: Essentially what this amendment does is to make sure that in those rental units which are

part of the Ontario Housing Corp or run as non-profit or co-op housing units in the province, the tenants will not be subject to more than one rent increase during a year. That had not been provided for in the original bill.

Mr Tilson: I wonder if I could ask why. What is the rationale for that amendment?

Hon Ms Gigantes: There was a good deal of comment during the public hearings during the summer that in fact rent control should apply to all rented premises in the province. The government feels there is good justification for not having the act apply in full, because rental units which are part of that stock of units, either operated by the OHC as rent geared to income or operated in our non-profit and co-op housing stock as rent geared to income—here we are talking simply about the market units. But one whole section of that stock operates on rent geared to income, which I think we all understand, so there is no application of the Rent Control Act to that section.

Mr Tilson: Mr Chair, if I could just—

Hon Ms Gigantes: No, if you would let me finish first.

Mr Tilson: I am sorry.

Hon Ms Gigantes: We are providing here for those units which pay market rent within our non-profit and co-op housing stock, so that they will have no more than one increase a year. Because those units still are a different kind of housing stock from the private rental stock, we have not sought to apply the rent control legislation to them, but we are making the provision that they shall have only one increase per year.

Mr Tilson: I understand the minister's intent, but as I understand non-profit housing, there is rent geared to income and then there are the others. By not having rent controls—I understand you are saying the intent of this section is that this legislation would not apply to the rent-geared-to-income units.

Hon Ms Gigantes: The legislation in toto; that is right.

Mr Tilson: That is right. The difficulty is, of course, that the entire building is indirectly subsidized.

Hon Ms Gigantes: That is why we have not sought to apply the legislation.

Mr Tilson: I appreciate that, but in fact you are indirectly affecting those tenants who are not subject to the rent-geared-to-income units.

Hon Ms Gigantes: We have sought to provide them with the benefit of having only one rent increase a year. As matters stand now, they are subject to more than one increase a year from time to time.

Mr Tilson: I understand that, but by doing that you are indirectly assisting the other tenants as well because of the overall building having two classes of tenants.

Hon Ms Gigantes: This amendment applies only to those tenants who are in the market rental units.

Mr Tilson: I understand that. Just to be brief, are you really not creating a class system of tenants, that some tenants are more equal than others?

Hon Ms Gigantes: Yes, that is true.

Mr Tilson: Is that fair?

Hon Ms Gigantes: Some tenants are paying rent totally based on their incomes, and that is a benefit they have that people who pay market rents do not have within that sector. However, we feel that the people who are paying market rents should at least have the benefit of protection in that they should only have one increase per year.

Mr Tilson: But that continued assistance will continue no matter what you have.

Hon Ms Gigantes: What continued assistance?

Mr Tilson: The continued assistance to those types of tenants.

Hon Ms Gigantes: Which types?

Mr Tilson: The individuals who require assistance.

Hon Ms Gigantes: Do you mean people who are paying rent geared to income?

Mr Tilson: Yes.

Hon Ms Gigantes: That will continue; you are right.

Mr Tilson: That is right. So it really does not matter. That type of assistance will continue and presumably that assistance will continue from—

Hon Ms Gigantes: We intend to continue rent-geared-to-income assistance, yes.

Mr Tilson: That is right, but are you not thereby, with this amendment, shifting the burden to the other tenants?

Hon Ms Gigantes: No, we are shifting no burdens. We are providing that for the operation of such developments which combine both rent-geared-to-income and market units, there may be a slower kind of changing of the rent schedules in the market unit stock, which may make the administration a little less smooth; but overall it does not inhibit the operation of those units.

Mr Tilson: I believe what you are doing is that you are shifting the burden to those tenants who are not receiving assistance because the government—

Hon Ms Gigantes: We are providing them with additional protection.

Mr Tilson: If I could finish, naturally, because of that position, because of the burden being shifted, that the government will not be required—it is almost like a type of downloading, which all governments have been accused of including the Conservative governments, to municipalities, that favourite argument. This is a form of downloading to those other types of tenants.

Hon Ms Gigantes: No.

Mr Tilson: The government will therefore not be required to produce as much assistance as normally would be required.

Hon Ms Gigantes: No, that is not the case. I think Mr Tilson misunderstands what this amendment does. This amendment does one thing and one thing only. It says that tenants who are paying market rents within those kinds of developments shall be subject to only one rent increase a year. It says nothing about the extent of the rent increase. It does not provide the rest of the benefits of this legislation to them. It does not affect the other tenants, nor does it shift any cost between groups of tenants. It simply says that the

administration of those developments can only ask for one rent increase a year from the people who pay market rent.

1110

Mr Tilson: I understand the change. As usual, in much of this bill it simply boils down to a disagreement in philosophy between myself and the minister as to where she is going with this legislation.

Hon Ms Gigantes: No, I think there is a misunderstanding.

Mr Tilson: No, I understand perfectly well what you are trying to do. You are shifting it on to the other tenants.

Hon Ms Gigantes: Which other tenants?

The Chair: Thank you. Ms Poole.

Ms Poole: When I look at this amendment I find myself in an unusual situation, because I am accusing this government of not going far enough. Usually they have gone too far for my taste, but on this particular amendment we will not be supporting them. The Liberal caucus has put forward an amendment on this same section. I may as well speak to it at this time because it is very intricately linked to what the government has just proposed.

The Chair: Order, please. We are never going to get through this bill if we do not do one thing at a time.

Ms Poole: I am just saying I would not be speaking to our own motion because I am combining the two and saving time. We have an amendment on this same section, and the philosophy I am going to espouse is—

The Chair: Because there is so much paper around and because it is absolutely necessary for every member, including myself, to be able to follow what is going on and not have us go back to certain sections, which I have seen happen before in committees because certain members did not believe that certain subsections had been carried, why can we not carry and vote whether we are either in favour or not in favour, and then go to your amendment at the appropriate subsection?

Ms Poole: The two amendments are on the identical section. They just have a different direction in which they are going. The government amendment has provided for its market renters a provision that there be a 90-day notice period of rent increases and that there be only one increase every 12 months, and that is as far as it goes. The government has refused to include non-profit housing under rent control in the full scope and this has been roundly criticized by tenants, because those renters believe they should have the same protections.

Ironically, the landlord community also feels that non-profit housing should be under rent control. They feel it should be a level playing field, that the non-profit sector should be playing by the same rules of the game as the private sector. For two quite different philosophical reasons, both tenants and landlords have supported that non-profit housing should come under the full umbrella of rent control.

What this does is touch the tip of the iceberg. It does not really deal with the issue. We will not be supporting this. Our amendment will follow immediately, which I no longer need to talk to at the same length because I have just given you our rationale. We cannot support the government amendment.

The Chair: Any further questions, comments or amendments to subsection 3(2)? Do you have an amendment?

Ms Poole: I move an amendment to subsection 3(2), that subsection 3(2) of the bill be amended by striking out clauses—now let me get my new, improved act.

Mr Tilson: On a point of order, Mr Chair.

The Chair: I am not surprised.

Mr Tilson: You will have to bear with me. I am having a great deal of trouble with all this.

The Chair: I am trying to do this in the most simple and orderly way possible. I need everybody's help to do that.

Mr Tilson: As I understand it, the government has an amendment to amend subsection (2) and now the Liberals are trying to amend that amendment. It seems to me we should first of all vote—

Ms Poole: We vote on the amendment to the amendment first, strange as it may seem.

Mr Mammoliti: Do you need help, David?

Mr Tilson: I do, but not from you, George.

Ms Poole: I think this is so convoluted that we all need a little help.

The Chair: I think the difficulty is that there is a lot of paper floating around and it may not co-ordinate with everyone's thoughts. We are going to take our time and we are going get this done as best we can. Ms Poole has an amendment to the amendment.

Ms Poole moves that subsection 3(2) of the bill, as reprinted to show the amendments proposed by the minister, be amended by striking out paragraphs 1 and 2.

Ms Poole: I think I have fairly well laid out the case of the Liberal Party. We feel that non-profit units, with the exception of those co-op units, since there is already a democratic element there where they decide what the rent increases are going to be among themselves, should be included under the umbrella of rent control. Ironically, the ministry has said, "It's too difficult and it's rent geared to income so we can't do that and we can't do this." When I was talking to the president of one of the major umbrella tenant groups in Ontario, he said: "That's nonsense. Give me three hours and I could give the government a way to do it." Tenants do not buy it. Landlords do not buy it. The Liberal caucus is not going to buy it.

The committee divided on Ms Poole's amendment to the amendment, which was negatived on the following vote:

Ayes–4

Brown, Mahoney, Poole, Tilson.

Nays–6

Abel, Coppen, Gigantes, Mammoliti, Marchese, Murdock, S.

The Chair: All in favour of subsection 3(2), as reprinted? Opposed? Carried.

Moving on to subsection 3(3), questions, comments or amendments? Explanation by the minister.

Hon Ms Gigantes: The explanation is the same. What we are talking about here is notice for the once-a-year increase in non-profit housing.

The Chair: All in favour of subsection 3(3)? Carried.

Clauses 3(4)(a), (b) and (c), questions, comments or amendments?

Ms Poole: Perhaps we could hold off just one moment, Mr Chair.

1120

The Chair: Sure, no problem.

Ms Poole: Legislative counsel has recommended that we have an amendment for subsection 3(4). I have it in the new package from today. It was not in our old package because I think it comes because of the government amendment.

The Chair: Ms Poole moves that subsection 3(4) of the bill, as reprinted to show the amendments proposed by the minister, be amended by striking out clauses (a) and (b).

Ms Poole: This is terribly confusing, but under the bill as originally printed there were clauses (a), (b), (c), (d), (e) and (f). Since the government reprinted it, it broke it up into two sections. Our first amendment only dealt with clauses (a), (b), (c) and (d). This particular one deals with clauses (e) and (f). That has everybody totally confused. What it means is that we are dealing with the second part of our motion, which I imagine the government will still defeat because it did not like our first motion.

The Chair: Shall Ms Poole's amendment to the amendment carry? All in favour? Opposed?

Motion negatived.

The Chair: Shall clauses 3(4)(a), (b) and (c) carry as amended? Carried.

Questions, comments or amendments on subsection 3(5)?

Mr Tilson: This is the five-year section, I believe.

Hon Ms Gigantes: No.

Mr Tilson: Yes, it is.

The Chair: Subsection 3(5) reads, "This act applies in respect of a rent increase for rental units described in clause (4)(a) if there is"—

Mr Tilson: I have two bills here before me. I understand. I was looking at the old Bill 121.

The Chair: No problem. Like I said early on, there is a lot of paperwork floating around.

Mr Tilson: Mr Chair, I think it is fair that you are going to have to go slowly on this because of the tremendous number of changes.

The Chair: Mr Tilson, I am going through it paragraph by paragraph.

Mr Tilson: I just want to make sure I am voting on the right subsections.

The Chair: I am not pushing the committee. The committee will proceed at its own pace.

Questions, comments or amendments on subsection 3(5)? Shall that subsection carry? Carried.

Ms Poole: We originally had an amendment to that, but I think with the government's reprinting we do not have an amendment to subsection 3(5) any more, right, legislative counsel?

Ms Baldwin: Yes, that is right.

Ms Poole: Forget it, Mr Chair.

The Chair: That is a new one, that is a first.

Mr Tilson, you can stop the committee at any time in its proceedings for questions.

Mr Tilson: I am not being critical.

The Chair: I want to tell you that usually the Chair carries whole sections at a time and I have refused to do that because of the complicated nature of this bill.

Mr Tilson: You misunderstand me, Mr Chair. I am not being critical of you. I am being critical of the process which seems to be foisted upon us. I think the whole process is going to be doubled in time, simply so that members of the committee can figure out which section we are voting on.

The Chair: Subsection 3(6), questions, comments or amendments?

Ms Poole: Mr Chair, I did have a motion in this regard, but since the government has defeated our amendment relating to bringing non-profit housing under the umbrella of rent control, our amendment is no longer in order.

The Chair: You are not going to pursue your amendment. Shall subsection 3(6) carry? Carried.

The Chair: Subsection 3(7), clauses (a) and (b).

Ms Poole: Mr Chair, the Liberal caucus has an amendment. Not only that, we understand what it is. I will say to the whip of the government caucus that it is incredibly confusing because of using a reprinted bill and having to revise all our amendments to comply.

The Chair: Ms Poole moves that subsection 3(7) of the bill, as reprinted to show the amendments proposed by the minister, be amended by striking out "8, 95.1" wherever it appears and substituting "8, 12.1, 95.1."

Ms Poole: Mr Chair, if you would like a brief explanation of the purpose of this—

The Chair: Absolutely. I think it would help.

Ms Poole: It probably would. Section 12.1 of the Liberal amendments creates a separate capital account for new complexes, which relates to moneys that would be put into a separate account for the purposes of doing capital repairs. Therefore, when subsection 3(7), going back to the reprinted act, says that only certain sections of the act will apply to a new residential complex, we will have an additional one. We could do one of two things. We could stand down this amendment until such time as the government makes a decision whether it would be willing to accept our later amendment establishing separate capital accounts for new complexes, or we could deal with it now.

The Chair: Are you asking me my opinion or are you asking the minister a question?

Ms Poole: I am happy to do either, whichever.

The Chair: My preference is not to stand these sections down because it will make it more complicated for us in the future, and that is not, I believe, a good enough reason to stand it down. We might want to hear from the minister and maybe other members or staff.

1130

Hon Ms Gigantes: I think the most reasonable way of proceeding would be to deal with the principle of the Liberal amendments, which will be addressed by various amendments of this nature. They would like to extend the period during which the Rent Control Act will not apply to new buildings. They would like to extend it from five years to 10 years.

Ms Poole: Just as a clarification, this amendment has nothing to do with that particular point. Our section 12.1, which we want to incorporate here, has to do with a separate capital account, a reserve account for new complexes only. It has nothing to do with extending the exemption for new buildings from five years to 10.

Hon Ms Gigantes: My point was that we are dealing with the principle of changing an exemption from five to 10 years. This is an amendment which relates to that in that it sets up a system of developing accounting during that period. As we will not be supporting the main principle of the amendment, which is the exemption extension from five to 10 years, we will not be dealing with this amendment with favour.

Ms Poole: With due respect to the minister, I think she has completely missed the point. Our amendment to section 12.1 simply establishes a reserve account for capital expenditures in new buildings. This could be if buildings are exempted for five years or for 10 years. It makes no reference in section 12.1 to five or 10 years. Even if the government was opposed to the principle of extending the exemption from five years to 10, it could still vote on the principle of establishing the capital reserve fund. The two are totally separate and apart. It is just camouflage to pretend you are voting against the capital reserve fund because it is tied to a 10-year exemption. It is tied in no way, shape or form. The government could very easily vote for section 12.1 and establish that reserve fund and do as it chose on the other matter.

Hon Ms Gigantes: What we are dealing with is an amendment that would affect a building during the period of exemption. We feel there is no way during the period of an exemption to put this kind of process in operation.

Ms Poole: I fail to see why the process of the capital reserve fund could not be put in place for new buildings during the period of exemption. The minister has certainly put other rules and regulations in for the period of exemption, such as the fact that tenants must receive notice, and if a landlord does not give due notice, that unit will come into the rent control system—I should not say the rent review system—because that is truly what it is.

Quite frankly, the minister's stand on this does not make any sense. She is basically saying, first of all, that because we are recommending that it be a more realistic exemption period—if you are going to encourage new construction, five years is not going to do it. With 10 years, at least there is some hope, maybe not much, that there will be some new construction.

That is totally separate and apart from what we are saying in section 12.1, which is simply to establish a reserve account. If the minister does not like the way we have set up the capital reserve fund, if she would like to stand down the amendment until next week so they can discuss the mechanism by which to bring it in, I have no problem with that, but it is just muddying the waters to talk about the exemption period as being relevant to this particular amendment.

Mr Tilson: I have a question for the minister and the Liberal critic on the figures of five and 10 and the rationale. Perhaps we will start off with the minister as to how your ministry arrived at the figure of five.

Hon Ms Gigantes: Mr Tilson, as you understand, the base for the rent control system, and indeed the rent review systems we have had in the past, is a notion of a maximum legal rent, and increases which are allowed on top of a maximum legal rent.

We feel that within a five-year period the operators of a new building will be able to go through enough market experience to establish a maximum legal rent which will allow in the future, given the mechanisms provided within the bill, for the profitable and secure operation of rental buildings. We think five years allows the market enough chance for fluctuation so that this can be established and that it is essentially all an operator will need to be able to operate into the future past the five-year mark.

Mr Tilson: I understand what you said, that this is why you are doing it, but again, why not six? Why not 10? Why that particular number? In other words, your answer could apply to any number. Ms Poole probably will give the same answer you just gave.

Ms Poole: I have a different answer.

Mr Tilson: That is good.

Hon Ms Gigantes: I can elaborate.

Mr Tilson: I should hope so.

Hon Ms Gigantes: The object of this legislation is to provide protection for tenants against excessive rent increases. It is not our object to prolong the period when any tenant will not have protection. We think that, on the other hand, the landlord has a fair chance to establish a maximum legal rent in a five-year business cycle which will support the safe operation and the profitable operation of a rental building in a five-year period and proceed forward from that. At the same time, we think it is a reasonable length of time to provide that a tenant or tenants will be without protection in order to give that benefit to new developers.

Mr Tilson: That is some elaboration on your answer. I guess my question really is, have you talked to any one who actually puts up buildings?

Hon Ms Gigantes: Yes.

Mr Tilson: I know you have had consultations with most of the major groups—at least, your predecessor did or members of your staff did—but I am thinking specifically of the Toronto Construction Association and the major landlord groups that actually invest to put up these things. In other words, it obviously takes a period of time. We are talking after a building permit, I think.

Hon Ms Gigantes: No, we have an amendment dealing with that item, Mr Tilson. We are suggesting occupancy now.

Mr Tilson: After occupancy?

Hon Ms Gigantes: Yes.

Mr Tilson: I have had some experience with these buildings and there are obviously problems that occur even after occupancy takes place. In fact, I do not know how many of you have ever moved into a building. I have moved in as a tenant. I can recall moving into a building that was not even completed.

Hon Ms Gigantes: I have just done it myself.

Mr Tilson: Then you know first hand. I am getting back to the question of five years. You know the problems. I can well remember moving into a building where my individual unit was completed, but the overall construction of the building had not been completed—the landscaping, the paving, the hallways. You walk up cement hallways. Much work has to be completed.

I guess problems that need to be ironed out with new buildings, aside from the overall issue your predecessor has spoken of—it is encouraging that this is the argument. Your government's comment has been, "We'd like to encourage investment in new buildings." I believe Mr Cooke has made statements similar to that.

Have you asked that specific question of the Toronto Construction Association, the Fair Rental Policy Organization of Ontario, any of these other major groups, large groups of landlords or construction people, and what has been their answer as to whether or not five years—I am talking about your consultations, because as you know, you did not attend the hearings, but I did. I attended every last one of them, and all of those groups came to us and said, "Five years is not enough."

1140

Ms Gigantes: All those groups did, but there were many other groups that came and said we should have rent control from the first day.

Mr Tilson: Who? What construction group said that? What landlord group said that?

Hon Ms Gigantes: There were other groups besides construction groups and landlords who came before the committee hearings.

Mr Tilson: I appreciate that. I am dealing with the groups of people you are trying to encourage to put up housing in this province. Those are the groups you are trying to encourage. That is the intent of this section. Would you name the groups that have said five years is enough?

Hon Ms Gigantes: I am not going to engage in a long discussion on this point, because we could have several hours of discussion on it. I give you my word that I have had discussions with these groups. One has to come to a decision about what is reasonable, given the different interests involved and given a kind of commonsense assessment, combined with the best kind of technical information we can gather through the Ministry of Housing. It is my judgement and it is the judgement of the government that five years provides an incentive as an exemption period and that five years is a reasonable period of time to allow tenants in new buildings to go unprotected, which is something I do not like to see.

Mr Tilson: You are repeating what you said before. Again, my question deals specifically with why the figure five. Why not 10? I understand your rationale.

Mr Mammoliti: On a point of order, Mr Chair: I am sorry. I have been listening. I thought we were on the amendment to the amendment at this point.

Ms Poole: No, we are just on the amendment.

Mr Mammoliti: We are not on your amendment?

Ms Gigantes: No, we are on your amendment to our amendment.

The Vice-Chair: Mr Mammoliti is correct. We are on the amendment to the amendment.

Mr Mammoliti: I think we are just straying off a little bit here. Maybe we could get back on board.

The Vice-Chair: Obviously people have seen this conversation as pertinent to this issue—the minister and the critic for the Conservative Party have—but I would remind members that it is useful if we restrict our comments as much as possible to the particular amendment. Before you get too excited, Mr Tilson, I realize these are all issues that have ramifications on each other, so it is difficult for the Chair to be too careful in its restrictions.

Mr Tilson: I would like to continue with my questions to the minister, because I think it is most relevant, specifically with the overwhelming evidence this committee has heard that five years is simply inadequate. I am not saying this in support of the Liberal motion, because I will be voting against it too.

People who know much more, with due respect, than you or I with respect to the issue of putting up buildings and with respect to encouraging investment for constructing buildings have come to us and said: "We're not going to do it. Why would we?" Having heard that testimony—I do not want you to repeat your rationale that you are trying to do this and you are trying to do that—why the figure five?

The type of answer I am looking for is that presumably someone who puts up these buildings says, "It takes so long to get into"—to use your words—"the market issue of rents to understand what is required to keep these buildings running."

Many of the issues raised in the overall problem of housing, most of the problems of housing, as you know, have occurred because 75% of the housing in this province is out of date. It is 20 years or more and they are falling apart. That is why the existing legislation, Bill 4 and its predecessor, came into being. That is why you put this into place. So this section is most important and I do feel it is incumbent upon you to put forward a rational position as to why you have chosen five years. Why not 10?

Hon Ms Gigantes: Very briefly, we did put out an options paper originally around this legislation. It suggested an exemption period of three. We heard a lot of discussion of that proposal. We moved to five, and I am told that the experience under the existing legislation, Bill 51, the RRRA, is essentially that it takes about five years for rents to be established in new buildings that really reflect what is happening in the market in a way that allows landlords to be able to use that as a base and move on.

We really do believe, which Mr Tilson clearly does not, that the provisions for rent increases in this legislation are quite adequate for landlords to be able to maintain and operate buildings at a profit. He and I disagree there. I have attempted to address the question of the number of years, and really, because I have got engaged in this discussion with him, I think we have moved off the subamendment, which we should be dealing with.

Mr Tilson: On a point of order, Mr Chair.

Ms Poole: Mr Chair, I have been waiting quite patiently.

Mr Mammoliti: So have I.

The Chair: Is this a point of order?

Mr Tilson: It certainly is.

The Chair: And the point of order is?

Mr Tilson: My point of order, Mr Chair, is that it has been admitted by all that this is all tied in together. The reserve fund and this section, this amendment, are all tied into one. That has been the—

The Chair: Is that your point of order?

Mr Tilson: That is my point of order, and it is perfectly fair for me to ask this question at this time, or any question dealing with this.

The Chair: I think we have allowed you full rein to discuss your views on this.

Mr Tilson: Then, since we seem to be dealing with both of them at the same time, I now turn to Mrs Poole and ask her rationale for 10 years.

The Chair: I think it is Mrs Poole's turn to speak to the amendment.

Ms Poole: At long last. Mr Mammoliti earlier made the point that the issue of the five- to 10-year exemption is separate and apart from this subamendment, and he is quite right, but the minister was the one who brought this discussion into place, so I feel we should clear it up.

First of all, as to why we chose 10 years, we had landlord after landlord and construction association after construction association that came before us and said a five-year exemption would encourage nobody to build, that a more realistic period would be 10 years, so that landlords could come much closer to the break-even point prior to going under the rent control system.

Because we had heard various versions of this, one of the reasons we asked the Canadian Bankers Association to come to our committee was to give us an answer, and the Canadian Bankers Association said 10 years. They said it might be possible to reach this point in eight years, but 10 years was much more likely, and they substantiated that. That is the type of testimony we are talking about.

The whole point is totally irrelevant, because if the minister knows what it costs in carrying costs and everything else to put up a new unit today, you are talking of $2,000 to $2,200 per unit per month to carry that unit. If she is talking about protecting tenants, then she is looking at the wrong income level. Anybody who is going to be able to afford one of those new units is going to be relatively well-off. I will tell you one thing, the market is much broader at a $2,000-a-month rent than it is at a $500-a-month rent, so to me this is all a red herring, if you want to call it that.

The point we are trying to make has nothing to do with the five- or 10-year exemption. The point we are trying to make with this amendment is that later on, in section 12.1 of the Liberal amendments, we are putting forward a proposal for a capital reserve fund for new buildings.

We understand the minister's rationale for not bringing it in for existing buildings. It is very difficult with a building that is 30 years old and has capital repairs that need to be done, and done now. It is not to wait until a capital reserve fund is built up. It is perhaps understandable why they did not put in capital reserve funds for old buildings, but to me it is incomprehensible why they would not establish it for new buildings so that by the time we get to that 10-year period, or whenever it is, there is a reserve fund built up so that the tenants can be assured the landlord can go into that reserve fund, make capital repairs to the building, and not have to have an above-guideline rent increase because of it.

I just cannot comprehend that an NDP government, a socialist government, which purports to represent tenants, would not want this kind of thing. Certainly it would be a valid experiment to find out whether the reserve fund could work.If you have any belief at all in the reserve fund concept, surely it makes sense to try it with new buildings when we are starting with a whole new playing field.

Getting back to our subamendment of the minister's amendment of the original provision, which we are all totally confused about by now, all we are saying in this amendment is that later on we have something establishing the capital reserve fund. When the minister talks about parts of the act that apply in subsection 3(7), we want to make sure our concept of capital reserve fund is included. That is all we are saying. We have got off on quite a tangent about it, but it is very enlightening to see what the socialists are coming up with as far as rent legislation is concerned.

1150

Mr Mammoliti: In order to expedite things, I will pass my time.

Ms Poole: I was looking forward to your comments, George.

Mr Mammoliti: We have already touched on them.

Mr Turnbull: Surely the objective of all the parties is to have some extra rental accommodation built. It is quite obvious from the discussion with the various building groups that they are not prepared to build rental accommodation with a five-year window. You can play political games and say: "We've compromised. We said three years in the discussion paper and the banks said seven years and the builders said 10 years." It is irrelevant. If the developers are saying they are not going to build with a five-year window, are you going to achieve your objective?

The Chair: Order. It is my intention to allow considerable latitude in all the debate that this committee is going to partake in, but by the same token we have to speak to the subject matter that is before us and we have to deal with Ms Poole's amendment to the amendment.

Mr Turnbull: First, nobody else did, and second, I am coming to the very point of the reserve funds. If you have no buildings—

The Chair: Order, please. Mr Turnbull, I am not grateful for your comments. I warned all committee members, including your colleague when he started to stray off topic, that they should come back on topic. That is what I did for you, on behalf of the committee. You are either going to speak to the amendment or be ruled out of order and we will proceed with the other business of the committee.

Mr Turnbull: I am speaking to that. Since construction and reserve funds for new buildings are so interrelated, I think it is impossible not to interrelate the discussion of them. If you are not getting any construction of buildings, then it is irrelevant whether you have reserve funds. Ultimately you have to ask, who is going to fund the reserve funds? Is it going to be the tenants? That all depends on whether the buildings are built, and once they are built, how you control the amount of money flowing into these reserve funds. Are you going to say that the landlord has to pay a certain portion of the income of the building? If the income of the building is uncontrolled at the beginning, are you going to have a notional amount fully rented and the landlord will pay in the deficiency, in which case it further exacerbates the question of when the building will become profitable, if at all? I ask you, Minister, how you propose to get buildings built, because it is absolutely vital to Ms Poole's amendment.

Hon Ms Gigantes: I think we could get into a philosophical discussion and pretend this kind of business expertise and that kind of understanding of the motives of developers and landlords and the economy and so on for a long time. I think the opposition members understand the position we have taken. We believe it is a reasonable position and I think to try to get into further discussion on this question related to the specific item before us right now is probably not helpful.

Mr Turnbull: I have asked the minister, what do we need reserve funds for if there are no buildings being built? That is a pretty simple question.

Hon Ms Gigantes: We are not proposing reserve funds.

Mr Turnbull: To the suggestion of pretending expertise, I have to tell the minister that is extremely insulting, because I have a lot more expertise than you do in the construction industry.

Hon Ms Gigantes: We are not proposing reserve funds. That is the amendment to the amendment.

Ms Poole: On a point of order, Mr Chair: Originally I had proposed that we could either stand this down or proceed with it. I think it is obvious that until we deal with section 12.1 we cannot deal with our amendment to subsection 3(5). Just for clarification, we have two amendments to 3(7), which used to be 3(5) in our old bill, but is now 3(7) in the new bill.

The Chair: I am assuming we need unanimous consent to stand certain sections down. I noted earlier, with a lot of heads nodding in certain directions, that we did not have the unanimous consent and I note again that we probably do not have unanimous consent. We are at the stage now where I believe we have had debate. Mrs Poole, you have not had your fair share of the time. It is your amendment. If you need some more time to explain your amendment, I am certainly going to allow that.

Ms Poole: I think we should go ahead and vote on this, but I request that if section 12.1 passes, we revisit and reopen this amendment.

The Chair: It appears we have unanimous consent for that.

Ms Poole: If I have that request, I will call the question.

The Chair: Shall Ms Poole's amendment to the amendment carry? All in favour? Contrary?

Motion negatived.

The Chair: Shall subsection 3(7), including clauses (a) and (b) carry?

Ms Poole: Mr Chair, I have another amendment on 3(7). Because we are very close to 12 o'clock and we will have to go and vote soon in private members' hour, I propose that we adjourn and discuss my second amendment on 3(7) when we meet at 3:30.

The Chair: Just to remind the committee, we have stood down section 1, carried section 2 and carried section 3 inclusive up to subsection (6). When we reconvene this afternoon at 3:30 we will be dealing with Ms Poole's amendment to the amendment, subsection 3(7).

The committee recessed at 1159.

AFTERNOON SITTING

The committee resumed at 1546.

The Acting Chair (Mr Abel): The standing committee on general government is called to order.

Mr Brown moves that subsection 3(7) of the bill, as reprinted to show the amendments proposed by the minister, be amended by striking out "five" in the fourth line and substituting "ten."

Mr Brown: In this amendment and we had some discussion upon it this morning is that we are suggesting we have a period of 10 years before these new buildings come under rent control. The reason for that is quite simple. The people who are expert at this—and we are using the Canadian Bankers Association as our experts—are telling us that you cannot possibly be in a position to have the building to a point where it is paying inside of five years. We are afraid if we do not extend that time to 10 years, there will be no new buildings built. If there are no new buildings built in Ontario, then of course we have a great problem in our housing industry.

Obviously the government introduced this five years in the bill, recognizing that fact. We are saying it is just not an appropriate time frame, and I would again ask the minister how we arrived at five. Who suggested five would be an appropriate amount of time to properly encourage building in Ontario?

Hon Ms Gigantes: I will very briefly respond to that. In the original discussion paper, as you will recollect from this morning's discussion, we had suggested an appropriate option might be to have exemption for new buildings for the period of three years. When the Canadian Bankers Association was consulted, I understand it suggested five years, and it is five years we have brought forward.

It seems to us to be a reasonable period of time for the reasons I explained this morning. We are not looking to see a new building brought to a break-even point in the period of exemption. What we are looking at is a reasonable period of time to establish a maximum legal rent which, given the procedures of the rent control legislation, Bill 121, will permit a landlord to make both a profit and able to look to necessary maintenance and repairs. We feel five years represents precisely that.

Mr Brown: I guess there is a different view among the experts on what will, in effect, encourage construction in this province, and I suppose it comes down to a complete difference of opinion about the number. The witnesses we have heard and the Canadian Bankers Association have suggested 10 years is the number that really would more correctly represent the point at which a building would break even.

I say to the minister—at this point I guess this is a hypothetical conversation—that we will soon know if five years is an appropriate period of time. If it encourages construction, and that is the intent, I suspect, of this clause in the government's bill, then it will work. I think we will know shortly, within the next two or three years if there are no buildings being built, that the five years is not appropriate and that 10 years is a more appropriate number. I have serious reservations about staying with the five and would encourage the committee to do what I think the experts have told us and set the appropriate rents with the longer time frame involved.

As an aside, I would like to talk a little bit about the reserve fund we were hoping to have. As the minister knows, many forms of housing, or at least some forms of housing, have a reserve fund in new buildings; condominiums, for example, do. We are concerned that with the shorter time frame and no reserve fund we are going to get the worst of both worlds. Buildings are not going to be built and what few happen to be built are not going to get the repairs that are needed.

I urge the committee to support our resolution. I understand that it is again picking a number out of a hat, but I think we are doing it with more expert testimony that in our view will help the construction industry and the development industry provide the kind of housing we need. I am asking the government to consider that number more carefully, and I think that is what the problem is.

Mrs Marland: Mr Chairman—

The Acting Chair: A point of order?

Mrs Marland: No, it is not a point of order; it is just a request. I am a substitute on this committee for the regular member, David Turnbull, and I understand from the clerk that my substitution slip should have been presented to the committee this morning, although I was not taking part in this morning's session and Mr Turnbull was here this morning. I am only a substitution for today. I am only substituting this afternoon because Mr Turnbull was here this morning, so my request is for unanimous consent of the committee to accept my substitution slip for this afternoon.

The Acting Chair: You are correct, Mrs Marland, that the substitution slip should be in 30 minutes after the meeting has been called to order.

Mrs Marland: At the latest.

The Acting Chair: And it would take unanimous consent of the committee. Agreed?

Mr Mammoliti: Mr Chairman, I have to say this. I remember distinctly when we first started this committee approximately a year ago. It happened that one of our individuals was late and that side did not let us do it. In terms of unanimous agreement, I will not stoop as low, and I will agree.

The Acting Chair: Thank you, Mr Mammoliti. Do we have unanimous consent? Agreed.

Mrs Marland: Thank you for the unanimous consent. I hope the record will show, Mr Chairman, that I am not late for this committee. I suggest to Mr Mammoliti that I am here this afternoon in place of my colleague Mr Turnbull, who was here this morning.

The Acting Chair: Thank you, Mrs Marland, perhaps we can get on.

Mr Brown: Good to have you on the committee, Margaret.

Mr Mammoliti: Even if you are late.

Mrs Marland: You are so stupid.

The Acting Chair: Is there any more discussion on the amendment to subsection 3(7)?

Mr Tilson: Our party does not support either the government's position or the Liberal position, although obviously I think the Liberal position is better than the government position. I guess this is really a question to the minister. We are in a recession. It could be argued that buildings are not being put up because of your regressive and draconian laws, and you would probably respond, "There is a recession going on," and you would probably be correct to a certain degree.

Mr Marchese: Mr Chairman, I do not want to interrupt the speaker, but we were calling for a vote.

Mr Tilson: Mr Chair, I had my hand up to speak at the same time Mrs Marland did.

The Acting Chair: Mr Tilson is correct. I failed to recognize him. We got into the unanimous consent thing and I inadvertently bypassed Mr Tilson.

Mr Tilson: As I indicated, I assume you would take that position and you would be correct. There is a recession and it is a serious recession. People are out of work, companies are going out of business, for whatever reason, and we will not get into all that either your side or my position. But the fact is that there is a recession and it appears it is not going to be out of place for some time.

I suppose this question could be directed to both Mr Brown and the minister, and I hope both of you will respond. When you are considering your five-year or 10-year period, are you taking into account the issue of the recession and the date your five- or 10-year period is starting from?

Hon Ms Gigantes: The period of occupation.

Mr Tilson: The date of the act?

Hon Ms Gigantes: Of the occupation.

Mr Tilson: If the purpose of your bill is to encourage construction now and occupancy this year, which is unlikely, but within the next couple of months, then the recession is on and people are reluctant to proceed with the construction. Should you not take into consideration the seriousness of this terrible recession we are all feeling and extend the five-year and 10-year period? My question is to both the minister and Mr Brown.

Hon Ms Gigantes: What I have had to say before on the proposal in the legislation explains the position we have come to. I believe the five years, from point of occupancy, will be enough of an assurance to anybody who is contemplating investing in a rental building development. If that person is making a decision today or six months from now, the government proposal will allow a period without rent control provision application for a full five years.

We are not, as Mr Brown suggested, looking to provide a developer of a new building with an opportunity to reach a break-even point, however that might be defined. What we are looking to do is to provide a long enough period—and I believe five years provides that—to allow the establishment of a maximum legal rent in the market which will be stable enough within whatever period of up and down we see in the economy over the next five years—or indeed five years from two years from now—to establish a maximum legal rent which will, given the provisions of Bill 121 when it becomes actionable to such a development, provide a landlord with enough room for profit, maintenance and repairs to ensure that somebody contemplating an investment decision will be doing so in an atmosphere which is understood and predictable and where the establishment of a maximum legal rent can be done over a long enough period of time that fair rent in terms of return will be available for the landlord.

Mr Tilson: I regret your taking that position, because I think what housing needs is something to jump-start the economy. Housing has come to a dead stop. There is no construction taking place at all with the exception of some non-profit housing, and even that is going to dry up unless the deficit is going to climb even higher.

1600

It is still a serious problem and this is your golden opportunity to encourage new development. The bankers did make a similar statement to that, Mr Brown, but they did not necessarily support that position. They basically are opposed to rent controls. They are opposed to the philosophy of rent controls. They did make the statement, Mr Brown is correct, but they did it with the qualification that they are opposed to the principle of it. It was almost a reluctant form of statement. This amendment of Mr Brown's to your subsection 3(7) is the golden opportunity for you to put something in that is going to jump-start the housing industry, and you are not doing it.

Mr Brown: I would suggest one of the difficulties we have is lies the history of rent control. Members will recall that I believe in the 1976 incarnation of rent control, buildings built after that date were not subject to rent control, period.

We found that, over time, as other governments come to office, those views are changed. What we are trying to do with this amendment is put a specific time frame on, with a hope that any government in the future will have a look at the reasons why an investor might make a decision and take into account that the investor would have been assured by the government of the day that he had a fixed period of time.

We all recognize the realities of government. That is, no government in this province can last more than five years. There is an election and the government is either re-elected with a change in policy or a different party with a different view takes power. Then, as we know, rent control legislation or rent review legislation can change dramatically.

What we are attempting to do here is come to a reasonable number of years. I am not sure 10 is perfect. Maybe seven is right; maybe 12 is better. I do not know. But what I am saying is that five is not sufficient; 10 might be and 10 is more likely to be. It would give an investor in a building a more reasonable assurance that he can reach a stage in the development when he can pay the bills and,

most important, keep the building in the kind of shape you need to so that tenants in this province have good, well-maintained homes.

I would argue that while you may be right that no restriction on the number of years is best, if I were a developer I would maybe be a little bit more comfortable with a fixed time frame that was prescribed in legislation and, therefore, hopefully, less likely to be tampered with by a succeeding government.

I would really urge the committee to have a look at this and support our amendment because, in time, when the province is struggling to provide rental accommodation that is good for tenants, we will need to have new buildings built and I do not think the five years is enough incentive to create the kind of marketplace we need to do that.

The Acting Chair: Those in favour of Mr Brown's amendment? Opposed?

Motion negatived.

The Acting Chair: Shall subsection 3(7), as reprinted, carry? Carried.

Mr Tilson: No.

The Acting Chair: Did I hear a no?

Clerk of the Committee: You did, but it was after. You had already carried it.

The Acting Chair: It was after. Okay. Questions, comments or amendments to subsection 3(8)?

Interjections.

Mr Brown: I thought he said no.

The Acting Chair: It was already carried, then somebody said no after.

Hon Ms Gigantes: Mr Chairman, I believe the Liberals wish to move an amendment to subsection 3(8).

Clerk of the Committee: No.

Hon Ms Gigantes: No? Has that been withdrawn?

Mr Brown: What has happened is that, some previous clauses we are withdrawing were relevant to subsection 3(8).

The Acting Chair: Shall subsection 3(8) carry?

Mr Tilson: I have a question to either the minister or her staff. We have just passed subsection 3(7), which exempts new buildings for five years. I guess it is similar to the old subsection 3(6). My question is—and this came out during the hearings—what effect would this have on new buildings? I am thinking of year 4 or year 5. If we are exempt and they have not done it, then nothing happens; we just carry on. But new buildings do not do that because they are exempt. New buildings do not do section 96. Do you know what I am talking about?

Ms Parrish: I am afraid I confess to being a little lost. These sections say a new building can lose its exemptions under certain circumstances. One is if they have not told the tenants, "You're living in an exempt building." You can lose your exemption if you do not tell the tenants that they do not have the protection of rent control. Second, you have to tell the registry that you are an exempt building and the date from which you become exempt so that we know when the five years end.

Mr Tilson: We are talking about subsection 3(8) here.

Ms Parrish: Yes. It says that if a landlord fails to give that notice, he or she can lose the exemption.

Mr Tilson: The owner of the new building does not have to do that; but if he does not do it, he is out of luck. I am thinking towards the end of the five-year period.

Hon Ms Gigantes: No. This applies precisely to the person who is managing—the landlord, you might call this person—the new building. In order to get the exemption, that landlord has to follow certain provisions.

Mr Tilson: But if he does not do this, he is out of luck, even if it is a new building. Is that what you are saying?

Hon Ms Gigantes: If he or she does not follow this requirement, which is a way of saying, "You will be exempt from the provision of the Rent Control Act for a period of five years and we will provide the whole process through which you are exempt," then the building is not exempt.

Mr Tilson: Why would the landlord need to file the statement of rent information if the building is exempt?

Hon Ms Gigantes: We have to know when the five years end and we have to know the rent that is established. Further, if I am moving into a building as a prospective tenant, I want to know whether that building is going to be subject to the rent control legislation. If it is not, I may be subject to rent increases I will not be able to afford, so I need to know that.

Mr Tilson: So new buildings may not necessarily be exempt unless you know—

Hon Ms Gigantes: They are not exempt unless the landlord follows the provisions to gain the exemption. That is what subsection 3(8) is about.

1610

Mr Tilson: It is a difficult position. It shows where our bureaucracy is taking us. If landlords do not know any better—they are told that they are exempt for the first five years from the date of occupancy, presumably of each unit.

Hon Ms Gigantes: Whom would they be told by?

Mr Tilson: They would have to know this act for starters. They would have to know about subsection 3(8) or they are in big trouble.

Hon Ms Gigantes: If they looked at subsection 3(7), they would see as landlords that there is an exemption available, and subsection 3(8) tells landlords how to gain that exemption.

Mr Brown: I have some difficulties. Maybe what I need is just some help here in understanding the process. My concern is that as buildings finish their five years, there could be a situation where in a depressed real estate market the rents are very low one year and the next year—we have booms around here occasionally—the rent would be quite a bit higher for a similar building that happened to have been built just one year later.

For example, if the building were occupied today, five years from now perhaps rents would be depressed. A similar building could be built two years from now and the rents would be very high. So a tenant would face conceivably, when he entered the rent control system, in one building—

they could be side by side—the rents could be quite different. I do not know whether I am making myself clear here.

Hon Ms Gigantes: Yes.

Mr Brown: A tenant could be conceivably paying $300 or $400 more for exactly the same thing. Is there anything in this that would prevent that from happening?

Hon Ms Gigantes: Two points: First, when we discuss the question of the five-year exemption, what we are trying to do is provide a long enough period of time so that you are bridging a business cycle. That means that within that business cycle we would expect that a landlord would be able to establish a legal rent which would fairly reflect the value in the market in a continuing way. That is step 1.

Step 2: There is nothing in either the rent review legislation we have had in the past or the rent control legislation we are proposing here which purports to provide equivalence within the market. That is not what is provided by this kind of mechanism legally at all. So what you have is that within a range the market plays and there is competition. Some landlords may be induced to lower rents and some landlords may be quite happy to push forward with the maximum amount available under the guideline increase each year. Some landlords in the past have not used their maximum increase available. It depends on the market. There is market play around a system which is based on the maximum legal rent.

Mr Brown: Yes. I understand that. What I am trying to think through here are the ramifications of what you have just said, what a landlord may tend to do under those circumstances. What he may tend to do may not be particularly good for the tenants who are in the building. For example, if I were a landlord in the fourth year, one year before my exemption is over, I might say, "Look, I'm going to double my rents this year." You might throw a lot of tenants out on the street, but the landlord's objective is just to come into the rent control system at the highest maximum rent possible.

Hon Ms Gigantes: Right. Yes.

Mr Brown: I am a little concerned about what that might do to—

Hon Ms Gigantes: The market plays around that, Mr Brown. That landlord, in trying to double rents, I do not think would have any tenants. He has to have tenants to establish the rent. So there we are.

Mr Brown: Does that mean, if one particular unit is vacant at the time, that the last rent that was charged and actually paid applies?

Hon Ms Gigantes: That is correct.

Mr Brown: So if no one is ever actually paid the rent that he claims he is about to charge—

Hon Ms Gigantes: Then it is not the maximum legal rent.

Mr Brown: Even if the rest of the building—okay, now I understand.

The Chair: Further comments to subsection 3(8)? Shall subsection 3(8) carry? All in favour? Opposed? Carried.

Questions, comments and amendments on subsection 3(9)?

Mr Brown: We had suggested an amendment to subsection 3(9). We are withdrawing that.

The Chair: Shall subsection 3(9) carry? All in favour? Opposed? Carried.

Subsection 3(10), questions, comments or amendments? All in favour? Opposed? Carried.

Subsection 3(11), questions, comments or amendments? All in favour? Opposed? Carried.

Shall section 3 in its entirety, as amended, carry?

Section 3, as amended, agreed to.

L'article 3, modifié, est adopté.

Sections 4 to 6, inclusive, agreed to.

Les articles 4 à 6, inclusivement, sont adoptés.

Section/article 7:

The Chair: Moving on to subsection 7(1), questions, comments or amendments?

Mr Tilson: Is there a provision here as to how you serve the tenant? Is there a reference to the Landlord and Tenant Act, the process of serving a tenant? Am I on the right subsection?

The Chair: Yes, you are.

Hon Ms Gigantes: It relates to subsection 7(2), the process.

Mr Tilson: Is the person served in person, by mail, by posting on a door, the types of notices similar to those in the Landlord and Tenant Act? Is that in here somewhere? It is still subsection (2), is it?

Hon Ms Gigantes: We are just looking up the reference here.

Ms Parrish: I believe there is a later section in the procedural section, section 48, that tells you all the methods of giving notice in the statute. So you can hand it to the person; if you are a tenant, you can hand it to an adult person in the rental unit; you can leave it in the mail if there is an ordinary mailbox, etc. My recollection is that it is very similar to the Landlord and Tenant Act.

1620

Mr Tilson: I have a further question with respect to this process. During the hearings, both the Liberal Party and our party asked several times whether the draft regulations with respect to the entire bill, and certainly anything involving this section, would be submitted to the committee for consideration. Minister, either to you or your staff, have regulations been prepared and, whether it is yes or no, will you be presenting us with those regulations for our consideration prior to the committee making its report to the House?

Hon Ms Gigantes: As I mentioned this morning, we are doing consultations on the components of the rental guideline. We are also consulting around the amortization tables. I think each member of this committee has been alerted to those consultations and provided the background materials. Certainly we will be pleased to report back to you on those.

Mr Tilson: Any other regulations that you have prepared, or are you waiting until after you have passed the bill?

Hon Ms Gigantes: Some we would not be able to prepare until after the bill has been dealt with.

Mr Tilson: Why?

Hon Ms Gigantes: Because some of them will depend on what is in the bill. I am just reading a note here—

Ms Poole: Do you not know what is in the bill?

Mr Tilson: I see a bill here. You know what is in the bill. Can you not prepare regulations based on the amended bill that you are presenting to this committee? I want to know what you are doing, Minister.

Ms Parrish: I guess we intend to have a consultation on the regulations. What we did was to write to the major tenant and landlord groups and ask them to give us their priorities for regulation development so we could work on those regulations they thought were the most critical to them first.

Mr Tilson: Would it be useful for us to adjourn these proceedings until you have had an opportunity to prepare regulations for this committee to study?

Hon Ms Gigantes: No.

Mr Tilson: The reason I say that is that I ask innocent questions like this, and you quite rightly pointed out to me that I should read section 48, which is very kind of you, but there are other areas here that no doubt will be dependent upon what the regulations say. Now you are telling us—well, amortization things, and that is fine, but I am talking about the overall regulations you intend to put forward. Every ministry has a big picture; at least if you have not, you are in trouble. I would like this committee to see the big picture before we send this report back to the House.

Hon Ms Gigantes: I think the big picture is in front of us in terms of rent control legislation. I consider the regulations that we are going to attach to this legislation to be the fine lines around the big picture. The two key elements are now being consulted upon. I am quite happy to report back the results of that consultation. Some of the matters that will be associated with the act, I personally need to give more thought to. I would not like to see us stop this work while I do more background study of some of the items which will come under administrative or regulatory provisions.

Mr Tilson: I express my concern now and I will continue to express my concern. The motion I made at the outset this morning was not done in any flippant manner. I want to see everything and I think this committee wants to see everything that you have in mind for housing legislation. To say that the big picture is here—I thought we had the big picture when we were going around the province, but we do not have the big picture.

The big picture is going to include the regulations, which could include items under section 7, for example, or many other sections, the definitions section. There are going to be all kinds of definitions put forward in the regulations, definitions that will involve sections in the entire legislation, and we do not know what they are. You could rewrite the act with those regulations.

Hon Ms Gigantes: I do not intend to do any such thing.

Mr Tilson: I hope you do not, but I fear you do.

Hon Ms Gigantes: Mr Chair, Mr Tilson asked a question about section 7 and was referred to a very explicit description of process in section 48. Any further information that he seeks on any particular section, we will do our best to address as we go along.

Mr Tilson: I just hope that we are not going to see, as soon as this bill is passed, a section such as section 7 being rewritten by the bureaucrats. We do not know. We have no idea what the big picture is. We have a brief skeleton—

Hon Ms Gigantes: If you take a look at section 48, I think it might clear up your concerns on that one.

Mr Tilson: Excuse me—we have a brief skeleton that seems to change from week to week. Goodness knows what it is going to be next week, and yet you are going to think about what your regulations are going to be. You are going to think about it.

The Chair: This all relates to subsection 7(1)?

Mr Tilson: It certainly does, Mr Chair.

The Chair: I just wanted to make sure.

Mr Tilson: I have asked a question. It appears that the regulations have not been prepared and, if they have, this committee will never see them, which is shocking.

The Chair: I think your question was fine. You have asked to see regulations as they relate to section 7. I believe the answer was that they are not ready.

Mr Tilson: The answer was that she is thinking about it.

The Chair: Section 48 covers your question on section 7 and, rightly so, you asked if there were any other regulations available. I think the answer was that a lot of them are being formulated—

Mr Tilson: She is thinking about it.

The Chair: I know that might not be an answer to your satisfaction, but I think we have gone over this ground three or four times now. We are running a list. Ms Poole and Mrs Marland.

Ms Poole: On this specific point, it is an appropriate time to discuss it, because what triggered this in Mr Tilson's mind was the word "prescribed" in subsection 7(2). In rent review legislation, probably more so than in many other types of legislation, the regulations are incredibly powerful. They can actually change the direction of what is intended in the act, and there is a lot of power in the particular regulations attached to it. So we are very uncomfortable with the fact that we are looking at this legislation and have no assurance of what changes are going to be made in regulation which will affect the interpretation of this act.

Perhaps the minister could take under advisement that it might be appropriate for her to suggest that the standing committee on general government take a look at the regulations during the intersessional period, January, February, March, because there are changes. We have already seen a few draft copies of regulations which the minister's office had sent to the opposition critics on request. What I see concerns me because I see changes being made without the appropriate studies and reviews and with numbers pulled out of the air. I think if we are going to make this legislation work, we have to make sure the regulations are

proper. The minister may want to comment now, or she may want to get back to this committee on the possibility of this committee studying regulations in the intersession.

Hon Ms Gigantes: On the question of subsection 7(2), what we are discussing here is the piece of paper, the form which will give the tenant notice. There has been a consultation related to Bill 4 about the appropriateness of form, but I will say to committee members I am still thinking about matters relating to that. I certainly am not at this stage ready to indicate what I think the form should be like, but there has been a good deal of public discussion around it with the interest groups involved.

On the broader question of the regulations, I will keep that question in mind and try to assess what it would mean both in terms of the priorities of the work we are doing in the ministry and in terms of the priority of work that the government intends to bring to this committee.

Mr Tilson: I would suggest we stand this section down until the minister has had an opportunity to think about what the piece of paper is going to look like, where section 7 is dealing with a notice that would be given to a tenant. We have no idea what that notice is going to look like or how regimented it is going to be. It could say absolutely anything. I for one am not prepared to assign that right to the bureaucrats. I think the committee is out of order in voting on section 7 when we do not know what that notice is going to look like.

1630

Mrs Marland: I cannot believe what I am hearing. I think today is an example of the reason we want to accelerate the delivery of Hansards to committees. Unfortunately we will probably not receive what the minister said today for another three or four weeks, because at the moment that is how quickly we get the printout of Hansard. If we meet next Thursday morning—actually it is two weeks today because we are not sitting next week—and read over what the minister has said, it will be unbelievable reading.

I cannot believe we are here discussing a bill which we already know has tremendous impact on the future of tenants in this province and certainly tremendous impact on the future of landlords and the investment they have already made in real estate in this province, and we have a minister sitting here saying: "I'm still thinking about these matters. Some of these matters I'm still thinking about." I cannot wait to read in Hansard what her words actually are.

This government has the gall to bring forward legislation and ask this committee to place amendments and process this legislation while the minister says she is still thinking about it. What kind of game are we playing here? Either we have a piece of legislation because this is the government's position and this is the direction the government wants to go, or we do not.

It is not fair for the minister to answer, when she is asked about a very relevant section by both my colleagues, "I'm still thinking about these matters." I am sorry, but this is just not on. How flippant, how casual and how offhand can this government be if that is its attitude in dealing with processing a piece of legislation which is significant and unsatisfactory.

We already know what Bill 121 is. We know how many sections there were to the bill to start with. We know the government had 99 amendments to its own bill—we went all through that last week—which is inexcusable. Either you are willing to defend and answer the questions relevant to this bill or you come back with a bill you have thought about and are prepared to answer questions on. Who is going to be making these decisions? Are you going to make them or is the deputy going to make them or are you going to be thinking about them for another few months?

Hon Ms Gigantes: I might.

Mrs Marland: At what point will you have the answers you should have today when we are here to deal with this bill—not by choice, because we are not happy with this bill. We are here to deal with it and to be able to ask the minister questions. When the minister says, "I'm still thinking about these matters," it is just not good enough.

Hon Ms Gigantes: Perhaps I could make myself a little clearer. It appears that at least some members of the committee do not understand what we are discussing in this section. We are discussing the form on which the landlord will provide information and notice to the tenant.

What has apparently launched this great diatribe is that the exact design of this form is not available at this moment to the members of the opposition, and further, that I have said as minister that I want to consider the exact nature of that form. The information that will be on that form is covered by this legislation. What I would like to be sure of is that we are providing within the operation of this regime of rent control a form which can be easily filled out by landlords, in other words, which landlords understand and which is clearly understandable by the recipient, the tenant. In the past there has been some grief around this form. That is the reason there has been consultation under the section of Bill 4 that calls for a form for the design of a new form.

I have looked at the old forms that have been used in rent review and rent control in this province and I have examined the new form. I am not satisfied that we have the most clear design possible. I am sure each member of this committee would want to make sure that the design of the form provided, in language that was as clear and understandable as possible both to the person filling it in and to the recipient, the information necessary for this legislation to operate effectively to the mutual benefit of both interests.

Mr Brown: Perhaps the Chairman could help me. It seems to me, if my recollection is correct, that we had a discussion around this during the Bill 4 hearings. During the Bill 4 hearings the proposed forms were actually brought to this committee. We had a look at them and I believe all would agree that there were some helpful suggestions made. I am just wondering if the minister could undertake the same process as we go through this bill, because I think everyone would agree there were some improvements made to those forms as a result of the suggestions of my colleague the member for Eglinton and others. It does not seem to me that would be an unreasonable request.

Hon Ms Gigantes: I do not think so either. I would just like to make sure the outline we bring you is the best we can bring forward, and I am not sure we are there yet.

Mr Brown: Is that an undertaking from you to bring those forms when you are prepared?

Hon Ms Gigantes: Yes, I would be pleased to do that.

Ms Poole: As a point of clarification for the minister, she seemed to think our concern was only about the prescribed forms in subsection 7(2). Because this is the first time the word "prescribed" has been used in the act, our concern is much broader. We would really like to take a look at the regulations that are going to be affecting how this act is implemented.

The Chair: Mr Tilson made that clear. He was using this section specifically as an example but he was also using this section to express his concerns for some future debate that may take place.

Ms Poole: That is right. I believe the first time I spoke I also made a similar point, but the minister seemed to dwell on what was in subsection 7(2).

Hon Ms Gigantes: That is where we are.

Ms Poole: That is where we are, but it is also the first opportunity we have had to talk about what is prescribed and what is not. It is very important. I can understand that perhaps not all the regulations are in their final form or in an appropriate draft form at this stage, but I would like an answer from the minister by the time we meet again as a committee as to when the regulations for certain sections will be ready and whether she is prepared to share them with this committee, either during the course of the clause-by-clause or in the intersession if certain regulations are not ready by that time.

The Chair: Shall subsections 7(1) and 7(2) carry? All in favour? Opposed? Carried.

Mrs Marland: I have a question on a point of procedure. In my six years, I have not sat on a committee where votes have been taken and the minister has voted.

The Chair: The minister has the right to substitute and she is substituting for a member.

Mrs Marland: If the explanation is that the minister is substituting for a member of the committee, I accept that.

1640

The Chair: That is the explanation. She is substituting for Ms Harrington.

As you will see from the notation at the bottom of page 19, we are dealing now with clauses 7(2.1)(a) and 7(2.1)(b), which have been amended.

Mr Tilson: My question is similar to the series of questions we have been asking, which makes it difficult to proceed without seeing the regulations. First of all, we have a proposed amendment to paragraph 12(1)1 which talks about a number of things that need to be included that go beyond what the government proposes. Those sorts of things should be here, I believe.

I look at the words "The notice shall include information setting out the total cost," and it talks about taxes, heat, hydro, water, etc. I would assume the regulations could dictate other things that would be included. Is that correct?

Hon Ms Gigantes: No.

Mr Tilson: What do the words "shall include" mean? What else can a notice have?

Mr Brown: On a point of order, Mr Chair: Usually we would have a reason for this amendment and the explanation before we enter into the discussion.

The Chair: Yes, you are correct.

Mr Tilson: I will withdraw until later.

Hon Ms Gigantes: I certainly do not mind having Mr Tilson raise the questions first on this particular amendment.

Ms Poole: I do have an objection. I think we should all be clear as to the purpose.

The Chair: You are correct. I should have asked the minister and staff to explain the reason for the amendment. I apologize to Mr Tilson, but we will get right back to him as soon as we get the explanation.

Hon Ms Gigantes: Members of the committee are aware that there are provisions under the proposed legislation that relate to increases or decreases in the rent that can be charged as a result of extraordinary changes in operating costs. These in turn relate to changes in municipal taxes, heat, hydro and water charges. What this amendment does is specify that the prescribed form mentioned in subsection 7(2) shall include—

Mr Tilson: The prescribed form which does not exist.

Hon Ms Gigantes: That is correct. You can see why it does not exist yet. We do not even know if you are going to pass this amendment.

Ms Poole: You do not? Is there a schism in the NDP caucus? I am shocked.

Mr Tilson: I am amazed at the shock.

Hon Ms Gigantes: I live in faith.

Mr Tilson: I disagree with you, with due respect. I think the form goes hand in hand with this. When you are talking about the prescribed form that does not exist, the whole process is ludicrous. How can we vote on a prescribed form that does not exist?

Hon Ms Gigantes: We are telling you what will be in the prescribed form. That might help you.

Mr Tilson: I anxiously await that.

Hon Ms Gigantes: That is what subsection 7(2.1) indicates. It indicates that we would have in that prescribed form, as well as those items which need to be prescribed under this legislation, the cost for extraordinary charges that can affect the rent over the previous two years. Colleen reminds me this is only the case if the landlord has received an order to increase the rent.

Ms Poole: I find this amendment a little confusing, together with the reason for the amendment, because it states it only applies where a prior order under this act has provided for an above-guideline increase based on extraordinary operating costs. Is ther a prior order dating back to 1975?

Hon Ms Gigantes: There were no such provisions then.

Ms Poole: Okay, then 1985?

Hon Ms Gigantes: Only under this act.

Ms Poole: And no predecessor acts?

Hon Ms Gigantes: No.

Ms Poole: So would the effect of this be, for instance, if a landlord had an extraordinary operating increase next year, once this legislation is in place, and received an order granting him or her an additional rent increase because of it, if five years from now the landlord once again went for an extraordinary operating increase, because he or she had done it one time before, a non-specified time, he or she would have to provide all this extra information, but if he or she had not in a prior order, then he or she would not have to provide it?

Ms Parrish: What this section says is that if you have received an above-guideline increase by order under the Rent Control Act, in future your notice of a rent increase to your tenants must set out this information. Suppose I am a landlord and in 1995 I get an above-guideline increase. In subsequent years I must provide this additional information. This is to cover, for example, circumstances where landlords have had the benefit of increases and the tenants cannot get the benefit of any decreases that occur because they do not have the same information as the landlord. So this is essentially creating a more even playing field between landlords and tenants about information, if the landlord has obtained an order under the statute.

Ms Poole: Would the order have to be relating to an extraordinary operating increase or decrease?

Ms Parrish: The section says—

Ms Poole: Or anything, if it was capital?

Ms Parrish: Respecting capital or extraordinary operating cost increases. That is what clause 7(2.1)(b) says. The findings for the order include an allowance for an increase for capital expenditure or EOC.

Ms Poole: Could you elaborate on the type of information? It says here on "the total cost for the residential complex for each of municipal taxes, heat, hydro," and so forth. You will be prescribing a form which will just ask for totals. Or are there additional things that the landlord—is it a percentage? What exactly is it you will be requiring?

Hon Ms Gigantes: Total. It says "the total cost for the residential complex."

Ms Poole: So you are saying that the landlord has to say, "Last year I spent $84,000 on municipal taxes"?

Hon Ms Gigantes: That is correct.

Ms Poole: So it is just a bottom-line figure?

Hon Ms Gigantes: It is for the last two years.

Ms Poole: For the previous two years. So it is a bottom-line figure. It does not have to tell the tenants that there has been an extraordinary operating increase previously or that there has been a capital expenditure increase previously.

Hon Ms Gigantes: If they had been there, they would have known that.

Ms Poole: I am trying to relate why you have capital in here.

Ms Parrish: During the course of the hearings a number of people commented that they thought it was unfair that, for example, the landlord might come in and have certain repairs made to the building which would decrease the water bill or the heating bill or whatever, and the tenants would pay for that in the capital increase. If there was a significant saving, they would never have an opportunity to apply for any decrease that was there because they would never be able to find out that the decrease had ever occurred. The sense was that although the act theoretically allowed for that decrease, it never could happen in the real world because the tenants would not have the information.

A number of landlords said, "Oh, if the tenants only knew that even though I've done all this, my bills are still going up because everything is increasing," so we thought this information might help both landlords and tenants. If the landlord is right and the costs are still rising, then the tenants know that and they do not feel as upset. If the tenants have a legitimate right to apply for a decrease, then why should they not get that information? Otherwise, later provisions in the statute are not that useful because they have a theoretical right which they cannot really exercise.

We did, however, decide to confine this information to those people who had come through the system on quid pro quo ground: that if you are a landlord who never asks for an above-guideline increase and you never come into the system, perhaps you should have a simpler life, I guess, or a simpler form.

1650

Ms Poole: One thing I can say that is probably a good idea about putting it on the form is that many tenants do not appreciate that quite often 25% to 30% of their rents go to paying property taxes. So perhaps there will be that realization there that they have a stake in whether the property taxes are higher or lower in their particular community and that they should be more aware and more proactive in making sure market value assessment does not come in for instance, in Metropolitan Toronto.

Hon Ms Gigantes: They might also like to compare their property taxes to those of their cousins who own houses, which might also be educative. I think it will provide a lot of useful information to tenants.

Ms Poole: And perhaps the Minister of Housing will be approaching the Minister of Revenue to discuss the fact that—

The Chair: Order.

Ms Poole: Is the former Minister of Revenue calling me to order on this point?

The Chair: That is right. I knew exactly what you were going to say.

Ms Poole: I bet you did.

Mr Tilson: Somehow I lost my position here, but here I am back.

I had three areas in this subsection 7(2.1) which I started on—what the words "shall include" mean. What else?

Hon Ms Gigantes: The form will set out the basic information on which the determination of rent will be addressed.

Mr Tilson: What will that be?

Hon Ms Gigantes: It will be the existing rent, the maximum legal rent, the guideline, any application.

Mr Tilson: Why do we not put that in and take out the words "shall include"? Why should we pass this, enabling—I believe this—

Hon Ms Gigantes: The form will also include some other information which will describe to the landlords, I hope, as they fill in the form, and to tenants the meaning of the information.

Mr Tilson: Now we are getting to the issue. What does everything mean? I am quite serious about this.

Hon Ms Gigantes: Yes, I am too.

Mr Tilson: I need to know what you are doing. I do not know what you are going to put in this notice. It is going to be a legal notice which, if not complied with properly, is going to have serious ramifications on the whole system.

Hon Ms Gigantes: Yes.

Mr Tilson: At this particular point in time we on this committee have no idea what is going to be in that notice. We know it is going to include taxes, heat, hydro and water. We also know that it is going to include some other unknown things.

Hon Ms Gigantes: Not in all cases, as has been pointed out. It will include those items only if the landlord has applied for an above-guideline amount for that unit.

Mr Tilson: Is this not putting rather onerous restrictions on all parties and this committee? I repeat, we do not know what is going to be in this notice. Even if you had the notice here, even if you knew what your notice is going to be, which you do not—

Hon Ms Gigantes: That is correct.

Mr Tilson: —this section, "shall include," I believe gives you absolute discretion—not you, but the government, whoever that may be—complete jurisdiction to put all kinds of things in the notice.

Hon Ms Gigantes: No, that is not correct. Anything that goes in this notice is governed by regulation and it is prescribed and has to relate to the elements of this legislation. Otherwise it is not an acceptable regulation; it is open to challenge.

Mr Tilson: What is acceptable? I do not know what the regulations are, nor do you. I am going to ask you on every section as we go through here—you might as well be prepared for it—I want to know what this act means, and I do not know what it means. I do not even know what "extraordinary operating cost" means. I do not know what "capital expenditure" means. You have not defined them anywhere. What do those words mean?

Hon Ms Gigantes: They have been defined and, as we progress through the bill, we will deal with those definitions as they relate to the operation of this legislation.

Mr Tilson: What do they mean as far as subsection 7(2.1) is concerned?

Hon Ms Gigantes: They have a precise meaning which is described in clause 7(2.1)(b), which relates those items to an above-guideline increase.

Mr Tilson: I think you are saved by the bell.

Mr Fletcher: They are going to stack the vote.

Mr Tilson: Madam Minister, you tell me to look at clause (b). I am looking at clause 7(2.1)(b); that is the very clause I am looking at. I do not know what "capital expenditure" means. I know what "capital expenditure" means in my mind; I am not too sure I know what it means in your mind. Will you tell us?

Hon Ms Gigantes: It is not a question of what it means in my mind; it is a question of what it means in this legislation.

Mr Tilson: Yes, it is.

Hon Ms Gigantes: If you read through the legislation, you will see what it means in this legislation.

Mr Tilson: Would you tell me where it is, in so far as it relates to subsection 7(2.1)?

Hon Ms Gigantes: As far as it relates to clause 7(2.1)(b), it relates to an order given under this legislation for a capital expenditure or an extraordinary operating cost that is above guideline.

Mr Tilson: Where are those phrases defined in the act?

Hon Ms Gigantes: They are referred to in sections 14 and 15, I am told. I must say I am not flip enough yet—

Mr Tilson: Flip?

Hon Ms Gigantes: —to be able to give you—yes, the flip-over number—sections 14 and 15. If you will look at the sidebar on page 18 of the bill reprinted, you will see "Extraordinary operating cost." On the top of page 19, "Where increase is extraordinary." Those may help you. Also on page 19—

Mr Tilson: Let's deal with subsection 14(1)—

Hon Ms Gigantes: —I am still just answering the question, if I may. Under section 15 you will see a sidebar that can lead you to an understanding of eligible capital expenditure, and further, subsection 15(2), "When capital expenditure is eligible." Those are the relevant sections.

Mr Tilson: Mr Chair, I am going to jump ahead to these sections. May I do that?

The Chair: I believe what we are trying to find out at the moment is—

Mr Tilson: The definition of "extraordinary operating cost."

The Chair: —definitions to a number of words that you do not believe are defined as related to this particular section we are dealing with. As long as we are going to other sections for that specific purpose only, yes, you are in order.

Mr Tilson: Yes. Mr Chair, I am looking at the first section that the minister referred to, subsection 14(1). That does not define extraordinary operating costs. Let's read it:

"The landlord may base an application on an extraordinary increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex."

If you are telling me that extraordinary operating costs are those items, then let's put it in the definition section. That is not a definition of extraordinary operating costs. You know that.

Hon Ms Gigantes: Read on, read on. Read all of section 14.

Mr Tilson: Why can you not define what extraordinary operating costs are? That is not a definition at all.

Hon Ms Gigantes: It is an operative term; it is not a philosophic term. It is defined in operation. If you continue reading section 14, I believe that subsection 14(2) will help you understand the way this term operates within this legislation.

Mr Tilson: Section 14 has to do with basing an application on an extraordinary operating cost. Those are the first words. It is not a definition of extraordinary operating costs at all. It has to do with basing an application on an extraordinary increase in operating costs. That is not what I asked. I asked what "extraordinary operating cost" means.

1700

Hon Ms Gigantes: In terms of this bill, if you read section 14, you will find that defined in operational terms.

Mr Tilson: Where? It does not say that at all. We are talking about an application.

Hon Ms Gigantes: Continue reading in faith, Mr Tilson.

Mr Tilson: I am faithful. I am reading it and I do not see it.

Hon Ms Gigantes: You will be led to subsection 14(2).

Mr Mammoliti: On a point of order, Mr Chair: We have gone over and over this a number of times already.

Mrs Marland: Maybe you could explain it.

Mr Mammoliti: Why do you not just be quiet for a minute? Can you do that?

The Chair: What is your point of order, Mr Mammoliti?

Mr Mammoliti: My point of order is that perhaps there should be an amendment. If you are so concerned about the definition, put an amendment in the appropriate place. Let's not waste time here. We are dealing with subsection (2.1). Let's deal with it. If he is concerned about the definition, maybe he should put an amendment in.

The Chair: That is not a point of order.

Mr Tilson: I am asking again what these words mean, Mr Chair. You have indicated that the definitions section, section 1, is being deferred till some date in the future. Let me try this question to you, Minister: You are not prepared to put forward the regulations. I believe that you could define capital expenditure or extraordinary operating cost by regulation. I believe you can do that and I do not think you should have that jurisdiction. Therefore, would you be prepared to define in the definitions section, section 1, capital expenditure or extraordinary operating cost? Because I do not agree with what you are saying. If you are saying that is your definitions section, then it is in the wrong place.

Hon Ms Gigantes: Mr Chair, if when we return to the definitions section Mr Tilson is still in confusion about how an extraordinary operating cost will be defined operationally under section 14, all three subsections, then I would not be adverse to having that inserted into the definitions section. But we are not defining an entity. We are defining an operational process built into the legislation, and it is that operational process, you will note, Mr Tilson, under clause (2.1)(b), which speaks not of an extraordinary operating cost but of the findings for an order including an allowance for an increase respecting a capital expenditure or an extraordinary operating cost. I certainly do not mind duplicating that, but we are not describing an entity or a thing. We are describing a process defined in the bill, in section 14.

Mr Tilson: Mr Chair, we are defining a thing in subsection (2.1), and throughout this bill the words "extraordinary operating cost" and "capital expenditure" are used. They are not just in section 14 and other sections; they are throughout the entire bill. That is the point I have been making throughout these entire hearings. I do not know what a lot of these words mean. I can define capital expenditure. I can define extraordinary operating costs. You will probably disagree with me. What troubles me is that you will define something later by regulation, after you have passed this bill. Since you are not going to give us the regulations, I want to know what these words mean.

Hon Ms Gigantes: Mr Chair, I suggest that Mr Tilson spend a little more time reading the legislation.

Mr Tilson: I have been reading it for months.

Hon Ms Gigantes: If he still has difficulty, it seems to me we are at an impasse and simply have to deal with the process as laid out here. There is nothing that can be laid out in regulation in contradiction to the process described in the bill by which an extraordinary operating cost is determined or by which a capital expenditure becomes eligible for consideration for an increase. That increase having been ordered, under clause 7(2.1)(b) he should not have trouble understanding what will be included on the form.

Mr Tilson: We all know that at a later date you can come along and make those definitions by regulation. Subsection 7(2.1) does not refer to sections 14 or 15. They have nothing to do with subsection 7(2.1). There are other sections that I am sure your staff would draw to your attention where these words are used throughout the bill. I can tell you because I know about it. I happened to be at the hearings; you were not.

The Chair: There definitely is a difference of opinion.

Mr Tilson: There appears to be, Mr Chair.

The Chair: There appears to be a difference of opinion.

Mr Tilson: Mr Chair, if we have come to the end of the debate on that subject, I would like to raise another issue.

The Chair: I think we may have exhausted the time.

Mr Tilson: Turn to the Progressive Conservative amendment to subsection 12(1), where I talk about a number of things that go beyond the items that are referred to in subsection 7(2.1), beyond "municipal taxes, heat, hydro and water," in which we get into "garbage tippage fees, water and sewage fees, insurance, cablevision, superintendent's salary and rent, maintenance, and those provincial and federal taxes the landlord must pay in order to maintain a residential complex."

I get back to my very first question: Would those words be included in the words "shall include," or could they be?

Hon Ms Gigantes: They certainly could be if they were passed.

Ms Poole: On a point of order, Mr Chair: If I could suggest a way out of this, just to speed things up, would the government be amenable to an amendment to its amendment which would state "for each of municipal taxes, heat, hydro, water and any other prescribed costs"? This would obviously leave it up to the government to determine what those prescribed costs were. Then if Mr Tilson's amendment does by some miracle pass—

The Chair: Order, please. That is not really a point of order. It is a good point of information.

Ms Poole: That is right. It is a very valuable point of information, Mr Chair. I am trying to be helpful.

The Chair: Mr Mammoliti is always providing us with good points of information. As this is something that falls into the same category, I have to give the floor back to Mr Tilson.

Ms Poole: I tried, David.

Mr Tilson: Minister, since you say they could be in there, would you be prepared to put them in now? Would you be prepared to put the additional words that I have in the amendment I just read to you after the words "municipal taxes, heat, hydro and water"?

Hon Ms Gigantes: There is more than one amendment proposed to section 12. When we get to section 12, if there are matters that the committee decides should then cause us to revert to clauses 7(2.1)(a) and 7(2.1)(b), I would be quite happy to consider them then.

Mr Tilson: If the committee is prepared to enable us to return to subsection 7(2.1), Mr Chair—

The Chair: We would need unanimous consent to do that.

Mr Tilson: Yes.

The Chair: I cannot promise you that will happen.

Mr Tilson: I am quite aware of that. I know who can make the promises in here. I guess I am waiting for the government members to indicate—

Hon Ms Gigantes: We have indicated we are quite prepared to consider that, yes.

Mr Tilson: There appears to be unanimous consent, Mr Chair.

The Chair: We will see if there is unanimous consent when we get to that section, Mr Tilson.

Mr Tilson: Are we not on subsection 7(2.1)?

Ms Gigantes: That is what we have been discussing.

Mr Tilson: If the amendments to section 12 pass, I understand the minister is saying that she will be prepared to return to subsection 7(2.1).

Hon Ms Gigantes: To consider at that time whether it would be appropriate to revert to that section, right.

Mr Tilson: My understanding is that you would be prepared to return to subsection 7(2.1) if the amendments passed.

Hon Ms Gigantes: I am prepared to consider it at that time.

Mr Tilson: What does that mean?

Hon Ms Gigantes: It means that if an amendment were to pass in section 12—I cannot predict what will pass in section 12—that I considered inappropriate to place in subsection 7(2.1), then I would not be prepared to revert. The likelihood is that this will not happen, but we will see.

Ms Poole: I think the question itself is straightforward. In the unlikely event that Mr Tilson's amendment subsection 12(1) does pass, would the minister agree that we should reopen this matter at that stage?

Hon Ms Gigantes: I would consider it at that point.

Mr Mammoliti: She has answered the question, Mr Chair.

Ms Poole: It is not that hard a question. Yes or no?

Mr Mammoliti: She has answered the question. Let's get on.

Mr Tilson: I think she said maybe.

Mr Mammoliti: She said she would consider it. Let's get on with what we are talking about instead of stalling, David.

Mr Tilson: Mr Chair, I resent that. I am not stalling at all. I am asking a question.

The Chair: We have been making good progress today, and I think we have made good progress because we have been respecting the views of all the members of the committee in a forthright manner. I think we will try to consider to work in that vein.

Any further questions or comments in regard to clauses 7(2.1)(a) and 7(2.1)(b)?

Shall clauses 7(2.1)(a) and 7(2.1)(b) carry? All in favour? Opposed? Carried.

Mr Brown: Mr Chairman, some of the members are required in the House for five minutes.

The Chair: Right now?

Mr Brown: Very shortly. I was just wondering if the committee could agree to a 5- to 10-minute recess while we go up to the House. There is to be a voice vote.

The Chair: When do you think the vote will take place?

Mr Brown: At 5:15.

Hon Ms Gigantes: Mr Chair, I am not sure of the exact regulation about this kind of thing, but I think if there is a voting bell, then the committee is not sitting during that period. Is that correct?

The Chair: I understand that if the bell rings, yes, the committee can adjourn and go up and vote. I think that is correct.

Ms Poole: Mr Chair, perhaps we could explain for the minister that the alternative is that when we go to vote on this particular section, we will ask for a 20-minute adjournment so that we can caucus our third member and get him down for the vote. Perhaps then she would understand we are trying to save the committee time by asking for only five minutes.

The Chair: You are asking for a five-minute recess?

Ms Poole: A five-minute recess.

The Chair: Starting when?

Ms Poole: Starting in approximately one minute.

The Chair: Starting at 5:15?

Ms Poole: Starting at 5:15.

The Chair: Why do we not have a six-minute recess starting now? The committee is adjourned for six or seven minutes.

The committee recessed at 1713.

1725

The Chair: Before we adjourned, we had carried clauses 7(2.1)(a) and (b) and we were moving on to subsection 7(3). Any questions, comments or amendments to subsection 7(3)?

Ms Poole: I believe we have an amendment to that, if you could give me just one moment to go through my voluminous binder here.

The Chair: Ms Poole moves that subsection 7(3) of the bill be amended by striking out "void" in the first line and substituting "voidable."

Ms Poole: This may seem like a fairly small change, but in effect what it will do is ensure that there will not be times when an order is nullified unfairly for a very minor point. I will give you a couple of examples of what might happen.

This spring, under Bill 4, the government changed the prescribed forms. The process of advising various parties that the forms were changed was less than complete, so there were landlords who were actually submitting applications on their old forms. Under this section, using the word "void," that landlord would have no recourse, no opportunity to refile on an appropriate form.

There are other instances. For instance, many landlords have now computerized their records, so they actually have the prescribed form on a computer. If the word "void" is used instead of "voidable," it could be interpreted that if a comma was missing, or some fairly insignificant thing that did not change the tenant's understanding of the form at all, it would be automatically void.

All "voidable" does is give the rent officer the option, in cases where it obviously does not affect the tenant's understanding or the tenant's rights, of providing an opportunity for that landlord to correct the mistake without going through the whole process again. I do feel that it is not an unreasonable request, and I think it is quite common in law to use the term "voidable" instead of "void" for that very reason.

Mr Tilson: The Conservative caucus will be supporting that amendment. I guess it gets back to the question I asked the minister on an earlier section. What happens if the landlords just do not know about something? What happens if they do not know to file a notice or they forget and they can honestly provide a legitimate excuse as to why that was not done, or, in the example given by Ms Poole, an old form was used? I am not going to dwell on the issue of this prescribed form that does not even exist yet, but again, we see how easily it could change. It can change by regulation. Unless you are a very astute landlord or unless you have a consultant on retainer, you will not know.

One of the difficulties that was expressed to us during the public hearings, Mr Chair, as I am sure you will recall, is that we had legal clinics whose sole purpose was to explain to tenants what in the world all this legislation was about or we had tenants' associations—wealthy tenants' associations, many of them sponsored by the government—which would be in a position to explain to tenants what sections mean. Similarly, landlords have consultants and landlords have landlord associations that explain to them. But if you are a tenant or a landlord and you are just an average person who is not able to participate in any of these groups, you are out of luck.

The example Ms Poole gave is a very legitimate one, as well as other areas, so I think it is a reasonable request. To simply say that if you have not dotted the i's or crossed the t's it is void is unfair, and I wholly support her amendment.

Hon Ms Gigantes: We are referring here to the notice of rent increase, and we are saying in subsection 7(3) that an increase in rent is void, and that is an absolute, if the landlord has not given the notice required by section 7, and I think that is appropriate. We want to make sure that this process is followed as specified in the legislation.

If I could refer members to page 55 of the printed bill, section 92, "Substantial compliance with this act respecting the contents of forms, notices or documents is sufficient unless a rent officer or other employee of the ministry with whom it is filed is of the opinion that it would result in unfairness to any person." I would submit that in the kinds of situations described by members of the opposition parties, section 92 would provide the breathing room, as it were, to make sure that substantial compliance would be deemed in those cases unless it were going to create an unfairness.

Ms Poole: I thank the minister for pointing out section 92, and I was aware of it. The concern I have is that if you go back to subsection 7(2), it is very specific. It says, "The notice shall be in the prescribed form." The landlord cannot make up his or her own form. They cannot alter the form in any way, shape or form. It has to be in the prescribed form. Then when you go to subsection 7(3), it says, "An increase in rent is void if the landlord has not given the notice required by this section." To me, those two subsections, 7(2) and 7(3), contradict what is in section 92.

Hon Ms Gigantes: No. I would suggest that in fact section 92 modifies or has the potential for modifying the very exacting nature of section 7.

Section 7 is key; it is at the heart of the legislation. I think we have to be very clear. Were we to say in subsection 7(3), "An increase in rent is voidable," we would be creating uncertainty. What we are suggesting in subsection 7(3) is certainty, which can be modified where it is understood that substantial compliance has been achieved.

Ms Poole: While I am pleased to have that assurance from the minister, whenever I have two sections of an act that appear not to be quite simpatico, it does make me a little nervous that in fact the one section could be applied quite rigidly.

Hon Ms Gigantes: Let us make no mistake, it is the intent of section 7 to be as well defined as possible. I think that the kinds of situations you are talking about, which are everyday life situations, will be situations which can be covered by section 92 to your satisfaction.

Mr Tilson: I think the point raised by Ms Poole is most relevant and I would like the solicitor to make comment. I believe that if you leave it as is, the word "void" does not give the "rent officer or other employee of the ministry with whom it is filed" the discretion to reverse an error or an old form—a typographical error, the crossing of the t or the dotting of the i error, or the example given by Ms Poole where an old form is used. I believe that the word "void" is exactly what it says. That is the end of it and no ministry official has the right to change that. The word "voidable" does give the official the right.

I hear the bells. Does this mean we are adjourned?

The Chair: No.

Mr Fletcher: We are being called for a vote.

Ms Gigantes: Do we know when it will occur?

Mr Abel: We might as well find out.

Hon Ms Gigantes: In fact, we are just calling here now to find out.

The Chair: Please proceed, Mr Tilson.

Mr Tilson: I would like the solicitor to comment on whether the word "void" means that is it, or does the ministry official, as referred to in section 92, still have the discretion to reverse the errors I have suggested or Ms Poole has suggested?

Ms Baldwin: I think the minister's explanation of that is accurate in terms of how the legal effect of the statute would work.

Mr Tilson: Would you tell us what "void" and "voidable" mean?

Ms Baldwin: "Void" means it is—

Mr Tilson: It is over.

Ms Baldwin: Yes. There is the provision in section 92 that would make that not happen if there were substantial compliance with the form.

Mr Tilson: You believe section 92 enables a ministry official to reverse a section that says something is void?

Ms Baldwin: It is not a question of reversing it, it is a question of, on receipt, it is seen to be in substantial compliance and therefore the issue of void does not come up.

Mr Tilson: With respect, Mr Chairman, I believe that the moment that error has been detected, it is over, that the ministry official does not even have the discretion to review that position, because it is void. "Voidable" means that the official does have the right to review it, that it could be changed. That is the whole intent of "void" and "voidable". That is the whole intent of this amendment.

Again, is the item dead, with the word "void," before it reaches the people referred to in section 92?

Ms Baldwin: I gave my answer to that, Mr Tilson.

Mr Marchese: But section 92 would have the effect to act as if it were an overriding clause. He is quite correct in saying this is void, but section 92 then says that under certain circumstances subsection 7(3) is overridden by that clause. That is what it does.

Mr Tilson: No, it does not.

Mr Marchese: "Void" does not eliminate section 92, and section 92 cannot have—

Mr Tilson: What does "voidable" do?

Mr Marchese: There are two different things. "Voidable" creates another problem that I agree with the minister about. I think section 92 does address, to some extent, some of the problems some of you are talking about.

Ms Gigantes: Could I just say, as an old English major, that if we take the noun and the verb in section 92, what we have is, "Substantial compliance...is sufficient." Here we are dealing with the contents of forms, notices or documents, which relates very precisely to subsection 7(3).

Mr Tilson: I have no quarrel with section 92. I understand section 92. What I do not understand is why you will not concur with the issue of "voidable," because "void" means just that; it is finished, it is dead. "Voidable" means that under certain circumstances an error could be detected. Ms Poole is quite correct. Again I repeat that I respectfully disagree with the solicitor, that you do not reach section 92, you cannot reach it, because it is finished at that point. The moment the error is made, it is void, it is dead.

Interjection.

The Chair: Order, please. We are running a list. Anyone who wishes to speak can get on the list.

Mr Tilson: The moment you reach subsection (3), the error detected in subsection (3) or the error I have been referring to, if that fact has occurred, it is dead. The increase in rent is finished. The ministry officials—who else was there? "a rent officer or other employee of the ministry"—do not have the discretion, do not have the jurisdiction to make that decision. The only way they have that discretion is if the word "voidable" is used. That is what the word "voidable" means.

1740

The Chair: Thank you. Colleen, are you going to respond to Mr Tilson?

Ms Parrish: I will do my best.

What subsection 7(3) says is that if you do not give the notice, it is void, it is over. Section 92 gets into the discussion of, what the heck is notice anyway? Is this a good enough notice? Is that a good enough notice? What section 92 says is that you really should be giving the notice in the prescribed form, but if you give the notice and you use the old form or scribble something on it, and it is substantial compliance with the notice requirements, then it is an okay notice. However, if you have given no notice at all, it is void.

Mr Marchese: That is clear.

Ms Parrish: Because we do not say "voidable," nobody else can look into that. So if there has been no notice at all—not a defective notice, but no notice at all—it is void. There is no discretion for anybody to say, "Well, you didn't give notice, but you had a good reason for not giving notice." All section 92 does is to look at the actual notice and say whether or not that constituted a notice which substantially complied with the prescribed form. The amendment that the member for Eglinton has proposed would allow you to say, "Well, you didn't give notice at all, but we are still going to let you have this rent increase

because of some other reason," which may or may not have anything to do with the substance of the notice.

Mr Tilson: But not giving notice in the right form is not giving notice. That is not giving notice. That is her point.

Ms Parrish: No, not giving notice in the right form, if there is substantial compliance, is notice, and that is what section 92 says.

Mr Tilson: You have to give notice in the prescribed form, but, as she stated, if you have changed the form by regulation, you are not giving notice. That is the whole point.

Ms Poole: With respect, I think Ms Parrish did not read the whole of subsection 7(3). It says: "An increase in rent is void if the landlord has not given the notice"—and these words are quite important—"required by this section." And subsection 7(2) very clearly says that, "The notice shall be"—not "may" but "shall be"—"in the prescribed form."

So subsection 7(3) is not saying you must give notice or it is void; it is saying you must give notice as required by this section. You must give notice in the prescribed form or it is void. To me, as Mr Tilson has pointed out on several occasions, that voids the application, period. The story is over.

Ms Parrish: No, because section 92 says that on all matters respecting the contents of forms, notices or documents, and this certainly is one such matter, "substantial compliance" is sufficient.

Ms Poole: They are two very contradictory sections, because of the word "shall" and because of the words "required by this section."

Mr Chairman, I do not see the point in going on. The government obviously is not accepting the arguments by the opposition.

The Chair: Thank you. Mr Mammoliti.

Mr Mammoliti: I just think this is critical. It is a question I would like to ask perhaps the minister or even counsel. In a particular case when there is a discrepancy or a conflict in two different articles or clauses in an act, which one would supersede which: the latter one or the one at the front of the book?

The Chair: That is a good question.

Mr Mammoliti: I have reason to believe that the latter one supersedes the one at the front of the book.

The Chair: Who wishes to answer that question? Does counsel wish to answer that question?

Hon Ms Gigantes: I would not touch that with a 10-foot pole.

Ms Baldwin: There are a number of different rules of statutory interpretation. It is never based on where the placement is in the text. I think, for the purposes of this discussion here, it is probably not necessary to go into all of the rules that determine that.

Mr Mammoliti: So there is no point in me carrying on with that? I will leave it alone.

Ms Baldwin: I will add, with regard to the particular issue that is raised here, that it is quite common in a number of Ontario statutes to have provisions like this substantial compliance provision. Generally speaking, the purpose of the provision is that when there are, for example, the requirements for prescribed forms, if there is a little deviation from them, that should not be grounds for someone who is supposed to use them to be knocked out. That is the purpose of the provision and, generally speaking, provisions are interpreted to give them meaning.

Mr Fletcher: Just a hypothetical case for whoever wants to answer. I am a landlord. I have the old form. I fill it out and hand it to the tenant. The tenant tries to invoke subsection 7(3), and I can go to section 92. Is that correct?

Ms Parrish: Yes.

Mr Marchese: Just for my own clarity, because what the opposition members have said is quite clear. Subsection 7(3) says that it is void, and that is clear to me. Subsection 7(2) makes reference to those forms. That is again clear. I felt, looking at section 92, that under certain circumstances, subsections 7(3) and 7(2) could be overridden by other circumstances. Theoretically, I understand that. As I read section 92, I do not understand it, though, because it is not clear to me what it is we could override. What is it that section 92 overrides? That is the clarity that I do not have. Perhaps staff might speak to an example, again, that would give us this kind of clarity, for me at least.

The Chair: Anyone want to try that?

Hon Ms Gigantes: I think it was Ms Parrish who was asked.

Ms Parrish: The usual cases are where people use old forms and write things in. There has to be a substantial compliance, so, for example, if you go back to our section, the section says that you must say you want to take a rent increase, you must say that it is at this percentage, and so on. You would have to have that information there. But if you just sort of misspell the name of your street or some other thing, that would not knock you out. You have to provide the basic information that the statute says you have to provide, but just striking out with your pencil "1990" on the form number and writing in "1991" is not going to mean your notice of rent increase is void. It is really to deal with that kind of case. But the basic information does have to be there.

Mr Tilson: I have a question to the minister on the issue of the words "void" and "voidable." What would it mean to you if we said an increase in rent is "voidable" if the landlord has not given the notice required by this section?

Hon Ms Gigantes: It would mean to me that whoever dealt with a question around whether the landlord had provided proper notice would have to determine it in each and every case. What the current wording suggests to me is that in most cases it would be an easy, certain determination and that the landlord would understand it, the tenant would understand it, and there would be no question in the minds of staff. However, there are circumstances in life—

Mr Tilson: Circumstances in what?

Hon Ms Gigantes: In life.

Mr Tilson: In life. Yes, there are.

Hon Ms Gigantes: —where, with the best intent in the world, the exact compliance is not achieved. We all know that, for example, from voting in ballot boxes and

the kinds of allowances that get made in practice, which are reasonable allowances around the very specific way in which people are supposed to vote. We can have matters determined about whether substantial compliance has been met or not. Here, we are saying that substantial compliance is sufficient. So if there is some small foulup in the delivery of the form that is prescribed in section 7, there will be leeway given, unless an unfairness is created.

1750

Mr Tilson: I believe what the minister has done has been to give a definition for both "void" and "voidable," and that is what concerns Ms Poole.

Hon Ms Gigantes: No.

Mr Tilson: If I could finish, you started off defining what "voidable" meant and then you switched to the word "void." That is not what I asked you. Again, someone decides. I think we all agree, if there has been an oversight of some sort, the wrong form, and the general intent is there, crossing the t's and dotting the i's, I think it is reasonable that is where section 92 would come into place. But the way you have described it, you have interchanged the words "void" and "voidable"—they both go. What Ms Poole and I are both saying is that with the word "void," it is dead, it comes to an end. To enable section 92 to come into play you must use the word "voidable," and that is the intent of her amendment, which I support. So I ask you to reconsider your position because it is going to make it very difficult. Someone will end up challenging this in court and I can promise you a court will say: "Sorry, the word 'void' means exactly that. It's dead." So please consider it.

Hon Ms Gigantes: We have a conflicting legal opinion here and I am taking the opinion of legal counsel for the committee.

The Chair: Thank you. Shall subsection 7(3) carry?

Hon Ms Gigantes: You mean the amendment.

The Chair: Yes, my apologies to Ms Poole. We are supposed to vote on your amendment first.

Ms Poole: That is why I voted against the section carrying it, because I thought maybe we should do my amendment first.

The Chair: My apologies, Ms Poole. Shall the amendment to subsection 7(3) carry?

Ms Poole: Recorded vote.

The committee divided on Ms Poole's amendment, which was negatived on the following vote:

Ayes–3

Brown, Poole, Tilson.

Nays–5

Able, Fletcher, Gigantes, Mammoliti, Marchese.

The Chair: Shall subsection 7(3) carry? All in favour? Opposed? Carried.

Any questions, comments or amendments on subsection 7(4)?

Ms Poole: Mr Chair, because we are getting close to the end of the day, I just wanted to give one piece of information to committee members. Last week we tabled an explanation of the Liberal amendments with committee members. Because we had to change our numbering to match the government's new amendments, these do not necessarily match with what is in your book today. Next week we will be tabling a new explanation, so you will have the correct information in case you find they do not match.

The Chair: Thank you, Ms Poole. The minister has some information for us too.

Hon Ms Gigantes: Because she is so wise, Colleen Parrish did not raise this piece of information in the previous discussion, but it might be reassuring to members of the opposition to know that the wording "void," for example, in this case in subsection 7(3), along with wording "substantially in compliance with section 92," exists in the RRRA and has never been challenged in court.

Ms Poole: Mr Chair, on that point of information.

The Chair: I think we have debated that section and the matter has been passed.

Ms Poole: I will be very brief, Mr Chair. I just wanted to respond to the minister's comment, 30 seconds.

The Chair: I am not sure if the minister's comments were in order. I allowed the minister's comments to go forward because I did not see it prolonging the debate. Now it has prolonged the debate.

Hon Ms Gigantes: I am sorry, Mr Chair.

The Chair: I rule the minister's comments, while valuable, out of order and we are going to move right along to subsection 7(4). Questions, comments or amendments to subsection 7(4). Ms Poole.

Ms Poole: I was going to put a motion to replace the Chair with somebody more fair who will give a colleague equal time.

The Chair: Questions, comments or amendments to subsection 7(4).

Mr Tilson: Mr Chair, I believe this is a new section. I would like the government's clarification.

The Chair: Clarification? I do not think it is a new section. It is not denoted.

Hon Ms Gigantes: No, this is in the original bill.

The Chair: Would you like clarification just the same, Mr Tilson?

Ms Poole: Subsection 7(4) is a new amendment.

The Chair: It is not denoted on my page 14.

Mr Tilson: They have probably missed the denotation. I have a section in my book here that says "government motion."

Hon Ms Gigantes: I see, yes. Here we are, Mr Chair. Subsection (2.1) has been added.

The Chair: Do you want to give us an explanation?

Ms Baldwin: Just a little bit. This may not be necessary now, but just for the committee's future reference there are two ways in this reprinted bill, as with bills that are reprinted after committees finish them, that you can tell where things have changed. One is by the arrows that were referred to before and the other is when there is a change

of just a few words or a word within a section. That which is changed is underlined. You can see that in this subsection.

The Chair: Thank you. Any questions or comments on subsection 7(4)? Shall subsection 7(4) carry? Carried.

Subsection 7(5), questions, comments or amendments? Shall subsection 7(5) carry? Carried.

Shall section 7 in its entirety, as amended, carry?

Section 7, as amended, agreed to.

L'article 7, modifié, est adopté.

The Chair: Does the committee want to move on to a new section or adjourn at this point?

Hon Ms Gigantes: Why do we not try section 8?

The Chair: Does the committee want to try section 8?

Mr Mammoliti: Let's tackle section 8.

Section/article 8:

The Chair: Questions, comments or amendments on section 8 of the bill?

Mr Tilson: Is the same rationale given for section 8 as for subsection 7(3)? Are tenants and landlords being treated the same? In other words, if notice has not been given, what happens?

Hon Ms Gigantes: This could be taken as a balancing section, which would provide the landlord with the right to have the rent increase where the tenant had not taken his or her right under the act, having received notice.

Mr Tilson: The same rationale applies. I guess we are looking at fairness for both landlords and tenants. I do not think that either landlords or tenants are being treated fairly by that. In other words, I am looking at the issue Ms Poole raised on the issue of error or oversight: The tenant for some reason does not know or uses the wrong form or does not keep up with the forms. The same argument goes with the tenants. It is the issue of fairness.

The Chair: I think Colleen would like to speak to that.

Ms Parrish: I think this reference to the proper notice of termination is the period of time you have to give termination. There is no form. You do not have to use a prescribed form; you simply have to give notice in the proper way. For example, you have to give notice to the landlord. It is not like subsection (7) which says you have to fill in this prescribed form. It simply says you have to do it in the way it says in the Landlord and Tenant Act, with proper notice to the landlord and so on.

Mr Tilson: So there is not going to be a proper notice for tenants. There will be a proper notice for landlords but not for tenants, is that what you are saying?

Ms Parrish: There is not a prescribed form; there is a proper notice for both landlords and tenants.

Mr Tilson: What is a proper notice?

Hon Ms Gigantes: That is governed by the Landlord and Tenant Act.

Mr Tilson: Where is that?

The Chair: I can see we are not going to finish the discussion on section 8 today. It is already 6 o'clock. Do you have further questions on section 8, Mr Tilson?

Mr Tilson: No.

The Chair: Ms Poole, any further questions on section 8?

Ms Poole: No.

The Chair: Then we may finish it. Shall section 8 carry?

Section 8 agreed to.

L'article 8 est adopté.

The Chair: When the committee reconvenes we will commence clause-by-clause discussion on subsection 9(1). The committee is adjourned.

The committee adjourned at 1800.

CONTENTS

Thursday 7 November 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1693

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Marland, Margaret (Mississauga South PC) for Mr Turnbull
Murdock, Sharon (Sudbury NDP) for Mr Drainville
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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 21 November 1991

The committee met at 1533 in room 151.

ELECTION OF CHAIR

Clerk of the Committee: Honourable members, it is my duty to inform you that I have received the resignation of both the Chair and the Vice-Chair. I must call upon you to elect a Chair. May I have nominations, please.

Mr Abel: I nominate Mike Brown.

Clerk of the Committee: Are there any further nominations? Seeing none, I declare Mr Brown Chair of the standing committee on general government.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation / Projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: I would first of all like to thank the members and then remind the members that we have a lot of work to do. For the information of members, we have two new sets of amendments to the bill, one a government set of amendments and one from the Conservative caucus, so there are additional amendments we will be considering.

To this point, we have completed to section 8, with the exception of section 1, which has been stood down.

Mr Tilson: Mr Chairman, just a point of clarification, perhaps a question to Mr Abel or the minister: Are these government amendments in the new printed bill or are these over and above those?

The Chair: Perhaps the minister would like to speak to that. Did you hear the question?

Hon Ms Gigantes: The minister missed it. I am sorry.

Mr Tilson: We have had some government amendments distributed to us. Are they over and above the amendments you have printed in the new bill?

Hon Ms Gigantes: Yes, that is correct.

Mr Tilson: They are additional ones.

Hon Ms Gigantes: Yes, they are.

Mr Tilson: How long is this going to go on? I am quite serious. I made a motion the last time the bill had essentially been rewritten, and now we come for another week and there are even more changes.

Would the minister consider taking it back and rewriting it? You have substantially changed the bill. We have a different bill than what has gone around this province, with extensive hearings where members of the public have come and made substantial representations. It is as if it were all for naught.

Hon Ms Gigantes: I think the explanation for these amendments is fairly straightforward, as you will see when we come to them. I hope the member will find them helpful. They indicate that we have paid attention to people's input, including members of this committee during sessions of the clause-by-clause consideration.

Further, understanding that there were a fair number of amendments, which, as we have indicated before, attempt to meet many of the questions raised during the summer hearings and also to deal with clearer language in the bill, we reprinted the bill, with the agreement of this committee. So we have a reprint.

The principles and the intent of the legislation are the same. Therefore, we feel we would like to operate with the bill with proposed amendments.

Mr Tilson: Mr Chairman—

The Chair: I think you have made your point, Mr Tilson.

Mr Tilson: There is a certain unfairness towards the members of the Liberal Party and the Conservative Party. The NDP has put in a new book, and amendments continue to come. It is as if they are going to be passed without any discussion, without any vote. They are already printed. It does put us in a very difficult—

The Chair: I do not think that is a point of order, Mr Tilson. I think we should proceed with the business of the committee at this point.

Section 9:

The Chair: I will go to subsection 9(1).

Mr Tilson: My question with respect to subsection (1) is this whole principle of a landlord giving a tenant notice in writing. We have had many discussions during the hearings of unequal rents, particularly within buildings, and the unfairness of all that. Unit 1 has such-and-such a rent. Even though they are the exact same units, unit 6 may have a completely different rent, for different reasons.

This proposal you are putting forward in subsection (1) is going to accelerate that difficulty, that confusion. I appreciate I am referring almost to the overall philosophy of section 9, but we might as well start with subsection (1). If this has not been complied with, that unit 1 could have one set of rents and unit 5 could have another set of rents, simply because the landlord did not give the appropriate notice.

In Ottawa—and you were present in Ottawa for the hearings—one of the delegations put forward a proposal which I believe would have solved all this. It would be in the standard form lease. In fact, I put forward a motion at one time which was passed but which this committee has never really acted on, that a representative from the Quebec system come and tell us about its system. We have never had that. That is disappointing.

My point is that we were led to believe by the delegation—and I cannot remember who they were—that in the standard form lease in Quebec, the last rent would be in all

those leases, which would stop this, which would reduce the requirement of section 9, which creates unequal rents, and might even do away with the very expensive rent registration system. Could you comment on that?

Hon Ms Gigantes: The first clause in subsection 9(1) simply indicates that the landlord shall tell the tenant what the maximum legal rent would be.

1540

Mr Tilson: I am aware of that.

Hon Ms Gigantes: It is just a piece of information.

The other question you raise that has to do with equalization of rents is, as I think you have indicated by your notice of motion to section 18, not directly related to this. The other item of information you raise, the suggestion that we should have a standard lease form which would contain the information, is something we have not dealt with in this legislation.

What we have indicated instead in the terms of the legislation is that landlords can draw up leases which suit the particular situation which is being governed by the contract of the lease but they must give information to tenants about what the maximum legal rent is so that, as you would be aware, tenants who are moving in a situation where the maximum legal rent may not be being charged—in fact the rent may be lower than the maximum legal rent—will know they are open to a situation where the landlord may increase to the maximum legal rent if the market allows.

Mr Tilson: I appreciate what subsection 9(1) says; it is the philosophy of section 9 that starts off with subsection 9(1). Would you not agree that section 9 and all the subsections create, if not accelerate, perhaps inadvertently on your part, a continuation of the unequal rents we have heard about in all the Bill 4 and Bill 121 hearings?

Hon Ms Gigantes: No, I think it has nothing to do with the question of equalization.

Mr Tilson: Perhaps I could point out to you what the effect of section 9 is. If a landlord does not distribute the notice set forth in subsection 9(1), subsection 9(3) describes what happens.

Hon Ms Gigantes: Yes.

Mr Tilson: If the landlord fails to give this notice on unit 1—or it could be in a building; it could be a cluster of buildings—for whatever reason, inadvertence or lack of knowledge, then you could have a series of unequal rents within a building or within a cluster of buildings.

Hon Ms Gigantes: You can have a situation of unequal rents no matter what.

Mr Tilson: I am aware of that, but my point is that the process of unequal rents will be accelerated because of section 9.

Hon Ms Gigantes: I hope not. I hope all landlords will let tenants who are entering their premises under lease know what the maximum legal rent for the unit is. That is the point of this section.

Mr Tilson: This is a very serious amendment.

Hon Ms Gigantes: We are not dealing with an amendment.

Mr Tilson: I am sorry. This is a very serious section. One of the difficulties we heard from both tenants and landlords is that this system you are putting forward, Bill 121, is even more complicated than the existing legislation—not Bill 4 but the legislation put forward by the Liberal government. It is more bureaucratic. Tenants who cannot afford it have to hire legal aid clinics. Landlords have to hire consultants to advise them how to process this. I am not talking about the wealthy landlords you and your predecessor have referred to in the House. I am talking about average people who own small units. It is very difficult for them to comprehend all the intricacies of this legislation you are putting forward. If they do not know about this, it is going to create a lot of difficulties. What proposals do you have to educate both the landlords and the tenants as to the intricacies of this bill you are putting forward?

Hon Ms Gigantes: To respond briefly to that, we consider the matter of landlord and tenant education to be a very significant and important one. We will be developing supportive education programming that will ensure as far as possible that nobody is unaware of duties and rights on either side.

Mr Tilson: Do you intend to elaborate on the section—I cannot remember which number—we referred to last week, and would you be proposing regulations or further amendments to this act that, if through inadvertence or ignorance a landlord failed to put forward this notice, section 9 would not apply?

Hon Ms Gigantes: Mr Chair, we dealt with the covering clause that addresses Mr Tilson's concern here the week before last. I am presuming it would cover the cases he is talking about.

Mr Tilson: Thank you.

The Chair: Is it the pleasure of the committee that subsection 9(1) carry? Carried.

Subsection 9(2): There is a government amendment. Would you like to explain the amendment, Minister?

Hon Ms Gigantes: It is really an addition to the information that will be provided to a tenant entering into a new lease.

The Chair: Is that the explanation?

Hon Ms Gigantes: Yes. If we look upon the lease as a contract, it is an obligation on the part of the landlord to explain fully what the nature of the contract is, under this legislation.

The Chair: Are there questions, comments or further amendments?

Mr Tilson: I wonder if you could elaborate, Madam Minister. What is a new tenant? Would a subtenant be a new tenant?

Hon Ms Gigantes: Now, that is a question I cannot answer.

Ms Parrish: Yes, I believe so. I think "tenant" is a defined term and includes a subtenant and people who have the right to occupy the unit for various reasons. A

tenant means a person who pays the rent and has the right to occupy the rental unit and includes the tenant's heirs, assigns and personal representative, but not if it is somebody who essentially owns the unit through some indirect method. The right to occupy the unit, for whatever reason, could include being a subtenant with a valid subtenancy.

Mr Tilson: The difficulty I see with that is, if the landlord has been placed on notice of not a new tenant but a subtenant, and for whatever reason someone takes over a tenancy and the rent is paid, is the landlord all of a sudden euchred because of that problem? I am getting back to my question as to what a new tenant is.

Hon Ms Gigantes: The definition we have used for purposes of this legislation is indicated in the definitional section, section 1, as Colleen has just explained it to us.

Mr Tilson: It appears to be silent on that issue.

Hon Ms Gigantes: No, I would take it, as Colleen Parrish has taken it from that definition, that a sublet would provide a new tenant.

1550

Mr Tilson: Whether the landlord knows of the new tenant or not?

Hon Ms Gigantes: When would a landlord not know of a new tenant?

Mr Tilson: All you have to go to are university tenants. It happens all the time. As long as someone is paying the rent, they do not care.

Ms Parrish: Perhaps I could speak to that since it is really a technical issue. Subsection 9(2), which is what the notice is, is governed by subsection 9(1), which says, "Before entering into a tenancy agreement."

When landlords enter into tenancy agreements, they must know when they are entering into agreements. If, for example, I enter into a tenancy agreement and during the year there is a subtenancy, I may very well have a provision in my lease that says that the subtenancy has to be with my consent, in which case I am going to know who this person is. If not, then the subtenant is governed by the tenancy agreement of the first tenant.

The Chair: Is that helpful, Mr Tilson?

Ms Parrish: The notice in subsection 9(2) still has to do with subsection 9(1), which is when this information is given. All subsection 9(2) does is tell you what the information is.

Mr Tilson: Thank you.

The Chair: Shall the amendment to subsection 9(2) carry? Carried.

Are there questions, comments or amendments to subsection 9(3)? Seeing none, shall subsection 9(3) carry? Carried.

Section 9, as amended, agreed to.

Section 10:

The Chair: Are there questions, comments or amendments to subsection 10(1)?

Mrs Marland: Subsection 10(1) is the one dealing with maximum rent. The question concerns the words "the maximum rent for a rental unit on a given date is the sum of," which I guess is the sum of clauses (a) and (b).

The difficulty about this section is that nobody is going to have any idea what the maximum rents are going to be. Although the landlord, or for that matter the tenant, may have an existing rent, because of all the other clauses in this bill that can implement change to that rent, there is no security for anybody as to what that rent may be.

My concern is that if you are a property owner and you are looking at planning your budget for the coming year, and you have a clause here that addresses what the maximum rent is, there is no clause anywhere that says what the minimum rent will be. So there is no guarantee to landlords or tenants about exactly what the financial picture will be.

What we are saying, as I understand it, is that, especially if you are in the position of needing new financing, you can go to the bank and say, "Well, there is a clause here dealing with maximum rents, but there isn't a clause that deals with what the minimum rent might be." There are all these other ways of envading what the actual rent will become, because of all the avenues open to envade an existing rent.

We do not have an amendment on this. Mr Chairman, I have not found the section in my amendments. I am just reading from the section in the bill.

The Chair: Perhaps, Mrs Marland, it was my mistake, but there is a government amendment to this section. Perhaps we could ask the minister to comment briefly on it, and by that time maybe you will have found your place.

Hon Ms Gigantes: I think members of the committee will be happy to see one of the technical amendments, which is a correct referencing of this section to other sections in the bill to which it relates. That is what has been added in the amendment, referencing subsection (1) to subsections (3), (5), (7) and (9).

The Chair: Mrs Marland, do you have some further comments then?

Mrs Marland: There is a Liberal amendment as well, to clause 10(1)(b). Is that right? At the moment we are only dealing with clause 10(1)(a).

The Chair: Yes, that is correct.

Mrs Marland: Okay. This is what really intrigues me, now that I see the government amendment. Apparently the reason for the government amendment is—maybe this is what the minister just said, but I did not hear everything she said—that this amendment is required to make this section, which provides the general rule about the method of determining maximum rent, subject to other new sections. So what you are saying is, because of other amendments, this amendment is needed. Right?

It just reinforces how poorly drafted this bill was in the first place. You can shake your heads as government members. I would be embarrassed to be a member of the government that presented a piece of legislation and then brought in 99 amendments. It is unheard of.

Mr Mammoliti: A point of order, Mr Chairman. This discussion is clearly not related to the amendment at hand and I would request that the member restrict her comments to that amendment.

Interjections.

The Chair: One at a time.

Mrs Marland: Mr Chairman, as a member of this committee, I have a right to speak. I appreciate your recognizing me for that reason.

The Chair: You certainly do.

Mrs Marland: I say to the government members, who say I am rambling on, that because this bill is so poorly drafted they are going to be in a position where at some point in the future they are going to have to defend what their government has brought to this province.

The Chair: Thank you, Mrs Marland. Perhaps you could return to the subject.

Mrs Marland: I am speaking to the subject. The amendment before us right now is necessary because of other amendments the government has brought to this bill.

I am simply saying that if this bill had been what the government intended it to be in the first place, it would not have had to bring in 99 amendments to it. I would like someone to tell me where there is another example of a piece of legislation brought by any government that has required 99 amendments before we even got it back.

Mr Tilson: How do you get the printing contract for these darn things?

The Chair: Mrs Marland, to clause 10(1)(a).

Mrs Marland: Clause 10(1)(a) is simply a technical, housekeeping amendment required by other changes to this bill. I am simply making the point that this government has brought in a piece of legislation which is so poorly drafted that it needs all these changes.

If the government members think that is okay and they are proud of that, let alone the implications of this legislation on the public and the jobs of the people in this province, then that is on their heads, it is not on mine. I am obviously opposed to this amendment and to this section.

1600

Mr Tilson: I would like to ask a question of the minister. We are talking about maximum rent. Again, I am getting back to how the average landlord or tenant understands this bill, because it is becoming more and more complicated. I look to the definition. Section 1 has been set down. The definition is "'maximum rent' means the lawful maximum rent for a rental unit." I would like you to tell this committee what "maximum rent" means.

Hon Ms Gigantes: I can certainly appreciate Mr Tilson's question, because when one reads the section, to follow every clause is not the easiest thing in the world. However, the concept we are dealing with here is a fairly straightforward one. At whatever point the apartment unit enters the rent review system—back in the old days under the Conservative government, in the newer days under the Liberal government or when built under this government hopefully—the tenant is to be advised of the maximum unit rent entering the premise. This is the formula that will be used: It will be the initial rent, followed by those legal rents allowed by the guideline in each year up to the point of the new rental, plus any of the applications for above-guideline increases which have been granted during that period. That is the simple concept, which takes a fair number of words to describe.

For any tenant or landlord, we have many dozens of offices across this province. Where in doubt, an individual can address an inquiry to the rent review office and get a clear answer. In fact, the rent registry is now in a state of readiness to respond to those inquiries. We can take proactive informational programs. We are doing that. We are mailing information out, in a phased way, to tenants across the province about what the maximum legal rent in their current abode is. If they have any doubt, landlords or any purchaser of a building can inquire about any unit in a building through the rent review offices.

Mr Tilson: Mr Chairman, I was simply asking whether the Minister of Housing could define "maximum rent." I have yet to hear a definition of "maximum rent." If you are putting out a directive, do you have that? With all due respect, the average tenant or landlord would not understand the slightest thing you have just said. What does "maximum rent" mean? What does it mean to you?

Hon Ms Gigantes: Maximum legal rent. It means the rent allowed under this legislation. It is arrived at by means of the section we are dealing with, which describes a process of establishing a maximum legal rent that very much reflects the process used by the Conservative government in earlier legislation and then, following that, by the Liberal government.

Mr Tilson: Minister, do not get into that. We are talking about your bill. The average tenant or landlord is going to turn to section 10, which is before this committee. We are debating that right now. The average tenant or landlord is going to turn to section 10 and is going to see the words "maximum rent" and ask, "What in the heck does that mean?" So they turn back to the definition section. The definition section says that "'maximum rent' means the lawful maximum rent for a rental unit." They are going to scratch their heads.

Would the Minister of Housing tell us what maximum rent means, in layman's terms, terms the average tenant or landlord in Ontario can understand?

Hon Ms Gigantes: You can read section 10. Any landlord or tenant who is in doubt can certainly understand the description I have given.

Mr Tilson: You think so?

Hon Ms Gigantes: I have talked to a lot of people over a lot of years about a legal rent and they understand that concept. If they want to work it out, they most often will seek the advice of our rent review offices.

Mr Tilson: I am just telling you what response this committee received around this province when we went around in two hearings. Nobody knows what in the world you are talking about. Nobody knows this terminology. I do not know whether you are going to elaborate somewhere in the regulations, which you have failed to produce, but it is a simple question. Would you as the Minister of Housing try again, in layman's terms, to tell us what "maximum rent" means?

Hon Ms Gigantes: I just did.

The Chair: Are there further questions or comments to clause 10(1)(a)? Shall clause 10(1)(a) carry? Carried.

Mr Tilson: I said no.

The Chair: Oh. It is still carried unless you would like a—

Mr Tilson: Does not the majority rule in this committee?

The Chair: I do not know. I have yet to figure out what is going on in this committee.

Interjections.

The Chair: Well, there was no recorded vote called. Mr Tilson, if you would request—

Hon Ms Gigantes: There is no automatic roll call. You have to ask for it.

The Chair: You have to ask. Mrs Caplan moves that clause 10(1)(b) of the bill be amended by striking out "all permissible" in the first line and substituting "all required and permissible."

Mrs Caplan: I am hopeful the government will support this amendment. We have been advised by legislative counsel that it would be required if the amendment for the provision of costs no longer borne were accepted. This is a very complex section of the legislation. I think Mr Tilson has had some difficulty understanding it himself and has gone on at length in the last little while. My constituents in the riding of Oriole are very concerned about the provision of costs no longer borne being very clear in the legislation. The hope is that this small word change will clarify the legislation for people who are making inquiries and will adjust the formula so that the costs-no-longer-borne provision will be reflected in this clause as well. We see it as technical but important as a tenant protection issue.

Hon Ms Gigantes: I will ask Colleen Parrish to comment on this.

Ms Parrish: From a straight drafting viewpoint, we simply do not agree that this is a necessary amendment. It may very well be that there is a question as to how we are reading what "permissible" defines. The way we read this is that you add on all permissible increases or decreases. "Permissible" does not define "decrease"; it only defines "increase." If you want to talk about "required," since there are no required increases in the statute—you are not required to increase your rents; even if you are given an order, you are not required to increase your rents—then the only thing that could be required would be a decrease. We do not say "required decreases" or "permissible decreases"; we just say "decreases." Then "decreases" is defined by those things that would have been subtracted under the statute.

Since we read it that way, we do not disagree with you that you would have to do a subtraction calculation for costs no longer borne. We just do not think the word "required" next to "permissible" does that. It could confuse people into thinking there is something in our statute called a "required increase." Since there is no required increase, we felt that it would just confuse people.

1610

Hon Ms Gigantes: Could I ask this of Colleen and Betsy: Would the purpose of Mrs Caplan's amendment be achieved and would it make the legislation clearer to read if we said "all permissible increases or required decreases"?

Mrs Caplan: The point of this amendment is to ensure that rent reductions are required as well as the permissible increases in the costs-no-longer-borne provision.

Hon Ms Gigantes: Because of the problem Colleen has indicated in her reading of your amendment as written, I think it is quite a practical interpretation. I think what you are after there is something that would perhaps clarify this. Suppose we said instead, just looking at clause (b), "all permissible increases or required decreases"? Would that be satisfactory?

Mrs Caplan: I think that would be satisfactory because it clarifies. I would be pleased if you will support our amendment to adjust that, because the intent of the amendment is to clarify that language. We would certainly be prepared to amend our amendment accordingly.

Ms Parrish: Legislative counsel has suggested that we might want to agree to give us a little more time to look at the costs-no-longer-borne provision.

Hon Ms Gigantes: And return to this?

Ms Parrish: And return to this in that context. We are having a terribly exciting discussion about permissible increases and orders and which ones are which. This is one of these tiresome lawyers' issues. I do not think we disagree with the end result; we are just trying to figure out what the best drafting mechanism is that makes things the clearest.

The Chair: Mrs Caplan, would it be acceptable if we stood down this amendment with the agreement of the committee?

Hon Ms Gigantes: I would be happy to do that.

Mrs Caplan: Yes, we would be happy to stand it down. Again, just for clarification on the record, we would like to ensure that rent reductions are required. I think you were very clear that "permissible" refers to increases. We want to make sure you reflect the requirement for deductions on behalf of tenants. We will agree to stand this down.

Hon Ms Gigantes: We will get a full lawyers' coalition working on this.

Ms Parrish: Get a few lawyers and we will have eight opinions.

Mrs Caplan: I have some wonderful lawyer jokes that seem appropriate.

The Chair: I have heard some of them.

Mrs Marland: Clause 10(1)(b) of the bill only further confirms my argument about the whole section when you are talking about maximum rent. Clause (b) is the one that talks about the areas that can change what the rent is. People who are dependent on institutions to finance their building go to the bank, the trust company or whatever their lender is and say, "I own a building with X number of units." Whether it is a duplex or a 300- or 600-unit building, you go and say, "These are my rents, this is my income, this is the equity in the property and this is the equity in the building."

With this bill, if you talk to them about what your rents are and what your income is, and they read this section that has permissible increases or decreases—if we change the words, fine; it is not going to change the intent of 10(1)(b). It is still going to say to a potential lender, "This is your rent now, but how do we know what it will be a year from now?" I would like to know how the government thinks buildings are going to be financed with that kind of latitude and that total lack of security of income to the owner of those buildings. Minister, how do you think buildings that need refinancing are going to get it with 10(1)(b) sitting there as a legal clause which says the rents can change? Particularly in this case, of course, I am addressing decreases in rent.

Hon Ms Gigantes: If we look at it from the point of view of the lender in this situation, the lender will not be worried about permissible increases, obviously. The legislation provides that a landlord, given market conditions, can certainly charge the guideline. It also provides that the landlord can make application to charge above the guideline. No lender would object to these things.

There is insecurity in the market anyhow. There are landlords out there now who find they cannot charge the maximum legal rent. That is a market condition. It has nothing to do with this legislation. That is always at risk in the market, and it will remain at risk. This bill says there will be a decrease in rent where the landlord has made a capital investment and the amount provided in the rent for paying for that investment has been paid off. In most cases, that is not going to be a huge amount of money, because if it is a large item in a large building, it will be distributed among many units, and for particular units it is not going to be very much. There is a relative amount of security about it and, further, all the lender would have to do is ask what outstanding items existed on rents that would be decreased after five years or 10 years when their value had been paid off.

These are not major amounts of money in terms of the lender. What the lender will want to know, however, is whether the landlord is going to be able to increase rents. This legislation will restrict the ability of a landlord who has improperly maintained a building to increase rents. I look upon that as rather a benefit, because if the landlord comes in for renewal of a loan and has a record in which he or she has not maintained a building and has not, therefore, been allowed to increase rents, the lender is going to want to know that. I think that is as it should be.

The Chair: Mrs Marland, just before you begin, perhaps we should recognize that what we are speaking to here is a technical amendment.

Hon Ms Gigantes: No, there is no amendment here. This is clause 10(1)(b).

The Chair: We have a Liberal amendment.

Hon Ms Gigantes: But I thought we had set that aside.

The Chair: No, we have not. What we are speaking to is the Liberal amendment to clause 10(1)(b), and I think what I am looking for—and I think I have it from two of the parties—is an agreement to stand down both the amendment and this clause. That would make it necessary to stand down all of subsection 10(1). Perhaps, in the interest of dealing with this bill in a businesslike and expeditious fashion, we should have this discussion when clause 10(1)(b) comes back to the committee after being stood down, unless you do not wish to stand this section down. I am just looking for how we should proceed here. I am trying to be helpful.

Mrs Marland: Yes. I respect what you are trying to do as the Chairman, but if we are looking to deal with this legislation expeditiously, we could have started on August 17. We lost almost two months of dealing with this bill because the government was not ready. The meetings were continually postponed and cancelled. So I am not interested in an argument about whether or not we stand it down now in order to deal with the bill expeditiously.

The Chair: I was just really looking to see whether you wanted to stand it down or you did not.

Mrs Marland: I respect what you were doing as the Chair, but I am interested in discussing this section and how the Liberal motion relates to clause 10(1)(b), because the whole subject of the risk of decreases in rent is very significant to the people who own that property. If that property goes belly-up because they cannot get more financing, then the building is out of business, and then when the building is out of business, all these socialist government members who think they are protecting tenants will have to be there to pay for the heat to be turned back on, the water to be turned back on or to find them alternative housing. That is how ludicrous this legislation is, and this is what we are dealing with.

1620

You can speak to the mayor of Mississauga, Hazel McCallion, if you want to know what happens with these buildings. She is the one in Mississauga who gets the phone call on the Friday or Saturday night when the heat has been turned off or the water has been turned off because the people who own the building are out of business because they have no money left to pay for heat and hydro and water. If you think this is fairyland and we are joking, I am going to read you back the Hansard when the repercussions from this legislation hit the street, because they will be your constituents as well as mine.

I do not want to debate the issue on whether we are for or against landlords or for or against tenants. This legislation is against everybody and this section that talks about permissible decreases is the very section that is going to put property owners in this province out of business and tenants out of somewhere to live. When the minister says it is the fact that they are not allowed increases that influences the financial institutions and the lenders, I say to this minister she is so out to lunch she does not even know how these buildings are financed.

Mr Mammoliti: On a point of order, Mr Chairman.

Hon Ms Gigantes: Let it go.

Mr Mammoliti: No, I am not going to let it go.

The Chair: Mr Mammoliti, on a point of order.

Mrs Marland: If it is a point of order, that is fine. He probably does not know what a point of order is either. We will know very quickly whether it is.

Mr Mammoliti: On a point of order, Mr Chairman: I do not think name-calling is appropriate in these hearings. I would like you to rule on that.

Hon Ms Gigantes: It is a verbal phrase, George.

Mr Mammoliti: No. It is bad enough that she looks over here and she insults every one of us on this side, but when she looks over and insults the minister, I have to say something.

Hon Ms Gigantes: It is all right.

The Chair: Thank you, Mr Mammoliti. I do not think there was a definite point of order there.

Mrs Marland: Thank you, Mr Chairman. The problem is, of course, that not one of the government members on this committee today was here when your party was the government, so they have no conception of what name-calling is. I have sat in this Legislature for six years and listened to the rhetoric of the NDP.

Mr Abel: Why does she not speak to the bill instead of giving us a sermon, Mr Chair?

Mrs Marland: I can speak freely. I have sat in this Legislature for six years and heard the rhetoric of the New Democratic Party in this House against landlords and property owners who made their own personal investments; yes, on a business basis; yes, to make a profit on their investment, as anybody would who was making any kind of investment, whether it is in a manufacturing business or a retail business or a service industry area. In this case they made an investment in buildings. In this case their investment is going sour because of this kind of legislation. Here we have a section that says there can be legal decreases in their rent. The minister says that the legal decreases in the rent can happen if there has been neglect of the building.

There are a whole lot of other sections in this bill where legal decreases can be granted and judged by rent officers, with a whole range of interpretation. Are we going to send all the rent officers to a special school so they all interpret every single section of this bill in black and white to mean exactly the same thing? No way. You know that is impossible. It is like any kind of inspector. The rent officers will make the judgement on an appeal by a tenant about what is neglect, what is not neglect or what is a legitimate claim on the part of that tenant about something going on in his building which affects the decrease in the rent, which in turn puts the whole building in jeopardy because, for the most part, these buildings are not wholly owned by the property owners. They depend on financial institutions to lend them money.

As the minister said in the standing committee on estimates when I asked her about what her ministry was going to do to encourage first-time home buyers into home ownership, her answer was, "Well, you know, 40% of the population of Ontario rent their accommodation anyway." She said she had friends who felt there was no difference between renting accommodation and renting money to buy accommodation.

Mrs Caplan: On a point of order, Mr Chairman: I appreciate my colleague Mrs Marland's remarks. My point of order is that I believe we were about to stand this section down and it might be more appropriate if she made her remarks when the section was before us.

The Chair: Maybe I will just ask Mrs Marland. Is it agreeable that we stand the Liberal amendment to clause 10(1)(b) down? I need unanimous consent or we will continue to deal with it now.

Mrs Marland: I am aware of the rules for proceeding and I respect the point made by the member for Oriole. Whether I made my comments now or when this section comes back does not matter. The fact is, the committee is going to hear my comments and I am coming to the end of my comments on this section anyway. With the relative importance that I see clause 10(1)(b) before it is set down, in order that it can be brought back, again with some changes, hopefully improvements, I am sure when it comes back it is not going to remove the area that is of concern to me, which is that decreases will take place by order under the power given to the ministry through this legislation. That is my concern.

It will become a concern of every elected person in this Legislature by the time this act starts to work in the community and we have people in difficulty. If the government thinks that when all these apartment buildings start going out of business because there is nobody to finance them it has enough money to pick them all up and protect the housing for that 40% of the people in Ontario who live in rental accommodation, to use the minister's own figures, then the government is more out of touch than we ever dreamed it was. The government is out of touch to think it is in a position to buy property that, through clause 10(1)(b), goes on the market because the owners have gone bankrupt. What they do not realize is that the government cannot be the landlord for all the tenants in this province.

Furthermore, by allowing decreases in rent, they are going to reduce the quality of life of the existing tenants in rental accommodation today. That is the point this government does not seem to care about. The fact is that if people cannot get financing for their buildings because there is no stability in their rents, there is no guarantee to their income.

Mr Marchese: On a point of order, Mr Chairman: At some point you have to assume that responsibility as Chair and assess whether or not the member has already made the point, which she has made several times already, and whether or not she is continuing to ramble unnecessarily on the same theme over and over again. You, as the Chair, have to assess that and say, "Have we had enough?" I am quite willing to listen to the points of the member possibly once or twice. Could I ask you to comment on that? You are supposed to rule on my point of order, Mr Chairman.

The Chair: I will comment after I hear from other members on the same point of order.

Mr Tilson: This is an astounding request. Surely members of this committee can come to this committee and make submissions and make comments. You may not like what Mrs Marland is saying, and obviously you do not or you would not have interrupted her, but she has the

absolute right to come and speak on clause-by-clause discussion. You, Mr Marchese, are preventing her from doing that.

Mr Marchese: Mr Chair—

The Chair: Mr Tilson has the floor.

Mr Tilson: She has the right to come to this committee and express her views. There is no question that she is saying things members of the government do not like, and they are all very good points.

Mr Mammoliti: On a point of order, Mr Chair.

1630

Mr Tilson: What is he speaking on, a point of order on a point of order? I would only submit that a member of this committee has the absolute right to come and say whatever he or she likes, as long as it is on point, and it is on point.

The Chair: Mr Mammoliti, on the same point.

Mr Mammoliti: On a point of order, Mr Chairman: In terms of what my colleague was trying to express and explain, the previous Chair had ruled on repetitiveness a number of times, if I remember correctly. We feel that the member has repeated herself a number of times and that is where he is asking you to rule.

Interjections.

The Chair: Order. It is, as we all know, interesting to listen to the comments of members, and of course members have the privilege to speak to any section of a bill they wish to speak to. Deciding what is repetitious is a little difficult sometimes.

I bring the committee back to where we are. We are dealing with section 10, or an amendment to clause 10(1)(b), which is a Liberal amendment of a technical nature dealing with this bill. I have been attempting to get unanimous consent to stand this section down. If we do not have unanimous consent, I hope that we will continue to debate it, otherwise we will have to—

Mrs Caplan: Could I ask you to call the question on whether the bill should be stood down so we can see if you have unanimous consent?

The Chair: There is no question needed—

Mrs Caplan: Would it be possible for you to seek unanimous consent?

The Chair: Do we have unanimous consent?

Mr Tilson: On a point of order, Mr Chair, dealing with clause 10(1)(b), either the clause as presented or the amendment: Normally, there has been the introductory part of section 10. The explanation as to why the initial change was made has never been made by the minister. There has been an addition of two subsections.

The Chair: No.

Mr Tilson: Yes.

The Chair: I know it is hard to understand, Mr Tilson—

Mr Tilson: I know it's hard to follow because it has been changed so often, but the original bill said, "Subject to subsections (3) and (5), the maximum rent for a rental unit on a given date is the sum of," and then we go into (a) and (b). Now the section says, "Subject to subsections (3), (5), (7) and (9), the maximum rent for a rental unit on a given date is the sum of," and normally before we get into any of these questions, whether it be the actual section or the Liberal amendment—in fact, I think that would actually precede the Liberal amendment—there is some explanation given by the minister as to why we are getting into that area.

The Chair: I believe the explanation was given by the minister.

Hon Ms Gigantes: We passed it.

The Chair: I do not think so. Mrs Caplan, on the same point of order.

Mrs Caplan: I listened carefully and I think if you check Hansard, Mr Tilson, you will find there was an explanation and a vote on the first section. I then read the amendment in and it is, from my experience on committee, just courtesy to allow an amendment to be stood down if the government has indicated a willingness to consider some change that would allow that to move forward. I ask that you reconsider. It is not a major request to ask that it stand down and we will have the opportunity at a future date to discuss fully this section. I believe it is in the interests of the work of this committee to allow that to move forward.

To insist that we discuss an amendment which, while properly before us, may be amended further as a result of the willingness of the government to consider a wording change recommended by legislative counsel I think is a reasonable request, so I ask once again for unanimous consent to stand this section down until the appropriate time.

The Chair: Do we have unanimous consent to stand it down?

Mrs Marland: Mr Chairman, I was interrupted on a point of order three speakers ago.

The Chair: You have the floor then, Mrs Marland. We are debating the Liberal amendment, clause 10(1)(b).

Mrs Marland: If the problem with debating 10(1)(b) can be resolved for now by standing it down, I may agree to that, but what I really take strong exception to is the fact that the government members, who obviously do not know the rules of procedure of debate in committee, are interjecting with points of order because they are upset by what I am saying. I happen to have a different opinion from the government members. They have a perfect right to their opinion; I have a perfect right to mine and that of the people I represent. All I am hearing this afternoon is them wanting to close off my opportunity to speak as a member of this committee in this debate.

If I had not been interrupted on so many points of order because they did not agree with what I said, I might have been more co-operative about setting down this section. I take strong objection to the fact that they are saying subjectively whether I am repeating the same points with which they do not agree and which I think, because they hit home as the truth of the matter, they take very strong exception to.

Having said that, I will agree to standing down the Liberal amendment on this section at this point but I hope the government members will not spend the next three weeks trying to cut off debate just because they do not like

what they are hearing. The facts will still be the same once this bill is proclaimed into law and the impact on the tenants and property owners in this province will still be as devastating.

The Chair: Do I have unanimous consent to stand down the Liberal amendment to clause 10(1)(b)? Agreed. That, of course, means we will have to stand down the entire clause 10(1)(b).

Are there questions, comments or amendments to clause 10 (2)(a)? Seeing none, is it the pleasure of the committee that clause 10(2)(a) carry? Carried.

Clause 10(2)(b): Questions, comments or amendments? Seeing none, is it the pleasure of the committee that clause 10(2)(b) carry? Carried.

Clause 10(3)(a): Questions, comments or amendments? Seeing none, shall clause 10(3)(a) carry? Carried.

Clause 10(3)(b): Questions, comments or amendments? Shall clause 10(3)(b) carry? Carried.

Hon Ms Gigantes: Could I suggest, if it is acceptable to you, that you ask, for example, when we get to clauses 4(a), (b), (c), because they fit together, that if anybody has questions on one section he could raise them?

The Chair: That is fine, but instructions to the Chair have been that we go through each particular section, and I guess that is appropriate, but—

Hon Ms Gigantes: This is the section; those are subsections.

1640

The Chair: Shall subsection 10(4) carry? Carried.

We have a government amendment to subsection 10(5).

Hon Ms Gigantes: I will ask the ministry to give us a little legal explanation here.

Ms Parrish: I believe this is just adding the changes, essentially. It is adding one of these acts. We have the Residential Rent Regulation Act, a second section, and part 9 of the Residential Tenancies Act. The only difference between this section and the old section is we delete the words "without an application," because there could have been increases permitted in the rent that were permitted by an order. By having the words "without an application" in there, it suggested it has to be only the guideline increases, whereas there might have been an order under one of these statutes saying, "Oh yes, you can increase your rent." All this is trying to do is to bring forward orders made under these previous statutes as well as guideline increases made under these previous statutes.

The Chair: Is it the pleasure of the committee that the amendment to subsection 10(5) carry? Carried. Shall subsection 10(5), as amended, carry? Carried.

There is a government amendment to subsections 10(6) through 10(9). Would the minister like to speak to that amendment?

Hon Ms Gigantes: Again, I will ask Colleen Parrish if she can give us an understanding of this amendment.

Ms Parrish: This just outlines the rules you apply in cases where, at some stage or another, a rental unit becomes exempt and then it has to come back into rent regulation. Earlier, when we had our discussion about what maximum legal rent is, we had to say you start out with the rent that was actually charged when rent regulation applied to you.

In cases where units were under rent regulation, then they were not, and then they were under rent regulation, this just really sets out the rules as to what the rent was when a unit has moved in and out of rent regulation. When something comes into rent regulation, the rules have been fairly consistent. It is usually the actual rent that is charged when it comes into rent regulation, or if a unit comes into rent regulation after a statute comes into effect, it is usually when it is first rented after the relevant statute comes into place.

Mrs Caplan: I am sure somebody understands that.

Hon Ms Gigantes: I could give you my understanding of it.

Mrs Caplan: No, I am sure that is clear.

The Chair: Shall subsection 10(6) carry? Carried. Shall subsection 10(7), as reprinted, carry? Carried. Shall subsection 10(8), as reprinted, carry? Carried. Shall subsection 10(8), as reprinted, Carry? Carried. Shall subsection 10(9), as reprinted, carry? Carried.

Section 10 is stood down and will be dealt with pursuant to the actions of the committee on subsection 10(1).

Mr Tilson: I have a question for the minister. I tried to get her to define what maximum rent was. She did not appear to be able to do that. I was looking specifically to section 10 as we have just reviewed it, and it has carried. However, I am interested, just to carry on from the comments made by Mrs Caplan as to whether someone out there understands it. I do not mind telling members of this committee, I have trouble understanding what this section means.

I am not embarrassed by saying that. The minister has indicated that she is going to put forward an education program for both tenants and landlords explaining what the overall bill means. Could you elaborate on what your plans are as far as educating the public on the explanation of Bill 121 is concerned?

Hon Ms Gigantes: I think the essential information is as I described it to you. Are you talking about this section, or are you talking about Bill 121?

Mr Tilson: Whatever the Chair deems relevant.

Hon Ms Gigantes: I cannot elaborate on specific education programs associated with Bill 121 at this point, but I would be glad to describe them to you once we have crafted them.

Mrs Caplan: I suspect you will publish Colleen's phone number.

Hon Ms Gigantes: No.

Mr Tilson: That is the problem I have, listening to the entire discussions we have had on this entire bill. I have gone through, and most people here in this room have gone through, two public hearings. We have had the staff come and give us the rationale on what certain things mean, but we have just passed a section. If we had a test, I doubt whether anybody in this room individually, if he were honest about it, could tell us what it means.

Mr Mammoliti: I can.

Mr Tilson: George, do you want to be first? Tell us what it means. You have no idea what you just voted on.

Mrs Caplan: To be fair, I was being a little facetious. I sat in committee through Bill 51, which was complex. I will agree that this is even more complex than Bill 51 was. As I understand section 10, and I do understand it, it really lays out the formula for the calculation of the maximum legal rent which the rent registry people will have available to them to give to any tenant should someone wish to inquire.

It is a technical part of the bill. It is very complicated. I do not think any average individual out on the street, be he tenant or landlord, really could reasonably be expected to work out the formula. However, there are some very able people in the Ministry of Housing who were able to work through the complexities of Bill 51. I am confident they will be able to work through the complexities of section 10; Pauline for sure, and a few of her colleagues as well.

Mr Tilson: How irresponsible for us, as legislators, to sit here admitting that we have no idea what these sections mean, that we have to hire experts to come and tell us what they mean. What in the world is the average person on the street going to do, when we, as legislators, are passing bills and we do not know what they mean? How irresponsible of us.

Mrs Caplan: If I may, to be fair, these proceedings are being televised. People are very cynical about the work we do. Certainly legislation is very complicated and I think we have a responsibility to try to explain it to people who are watching. I know my constituents in Oriole, my tenants in particular, are very concerned about this piece of legislation. It is not my intent to further confuse matters.

Mr Tilson: But they do not understand it.

1650

Mrs Caplan: I suggest to you, Mr Tilson, that there are people in the Ministry of Housing who would be happy to come out and explain the technicalities of the legislation. We may not agree with all components of it. It is very complicated and no average legislator, or tenant, or landlord could be expected to understand the legal complexities of any piece of legislation. I think that is a fair comment.

This piece of legislation in particular is very complicated, and there is a mechanism available for people who wish to understand it further. I think it is important for people who are watching these proceedings to know and to understand that. I am pleased to hear that through some sort of education program, or whatever you decide to do, there will be available individuals who will be able to offer people advice and assistance to better understand this very complex and very bureaucratic piece of legislation.

Mr Tilson: I certainly hope there will be a program for members of this committee and members of this House to understand what this means. Something has gone askew when no one understands what in the world we are talking about.

Section 11:

The Chair: Subsection 11(1), there is a government amendment.

Hon Ms Gigantes: Yes, Mr Chair. We have added a number, in effect. In order to add a subsection (2), we have had to identify the first subsection as subsection (1), and that is all that has changed.

The Chair: Questions, comments or amendments to subsection 11(1) as amended? Seeing none, is it the pleasure of the committee that subsection 11(1) carry? Carried.

Subsection 11(2): Minister, is there an amendment? We will have an explanation from the minister, and then your questions.

Hon Ms Gigantes: Mr Chair, this subsection is the section we are proposing as an amendment in order to accomplish the removal of costs no longer borne on capital that has been provided over guideline.

Mrs Caplan: One of the things tenants asked for in this section that I think was very reasonable and that was put forward through the hearings, particularly by the High Park Tenants' Association, the Lonsdale Tenants' Association, as well as others, was separating out the components so that it could be very clear as to what those components were that would be part of this provision. Minister, why has that not been considered, and would you consider it at this time, as I believe it is a very reasonable request?

Hon Ms Gigantes: I do not understand your question.

Mrs Caplan: The separate components regarding taxes, hydro, capital and so forth which make up the capital components, I think, could be listed for clarity. The representations made to this committee had asked, for example, if municipal property taxes, utilities and other capital expenditure components in the rent could be separated from other components of rent, and if so, how.

Hon Ms Gigantes: We are providing an amendment that will do that for increases over guideline, for capital only. Ms Parrish will explain this.

Ms Parrish: What the act provides is that if you have a base rent of, say, $500 and the landlord makes an application for an above-guideline increase for capital that is equal to a rent increase of, say, $50 a month, the landlord will have to show that the rent for that unit is $500 plus $50, which will be the capital component. In the next year, the $500 increases by guideline 6% or 5%, or whatever it is, but the capital component does not. That is what this subsection does. So the capital component would continue to be at $50 until the end of the amortization period, when it is withdrawn from the base rent.

The reason we do not have a separate category for taxes, hydro and so on is that they are all being increased by guideline. The capital component is in its own separate little compartment or package and does not increase by guideline. Essentially, the reason we have that distinction is to say that this is the stuff that can increase by guideline, and this is the stuff which the landlord may charge to the tenant but which is not increased every year by the guideline.

Hon Ms Gigantes: Yes, but the question being raised is a different question, which is the identification for the tenant of the components of the guideline. I am providing an amendment which does that in cases where the landlord has applied.

Mrs Caplan: For example, everyone is really clear on what a capital expenditure is.

Hon Ms Gigantes: We can indicate to you where the amendment on this subject is.

Ms Parrish: We tried to deal with this issue in a slightly different way, through notice of rent increase, which is in subsection 7(2.1) on page 13 of the reprinted version.

The decision was made that the vast majority of landlords actually do not come through the rent review system or the rent control system in a given year. The idea here was to take the view that when landlords come through the rent review system and they get the advantage of rent increases under the rent control system, in subsequent years they should tell the tenants how much they paid for taxes, utilities and heat so that the tenants in future years can figure out whether they should be applying for an extraordinary cost decrease. This was sort of the way we dealt with that problem, as opposed to doing it in every case.

Hon Ms Gigantes: I think that does provide what you were looking for.

Mrs Caplan: There is some clarification there. I am not sure that is exactly what was requested, but it does provide an explanation.

Hon Ms Gigantes: It does not quite meet it. We did a balance here, because to make sure it was happening in every case would be administratively difficult. When a landlord applies for an increase above guidelines, then it is pretty easy to insist on it.

Mrs Caplan: I know that Mrs Poole was concerned about this, because the tenant argument had been that by putting together all the components under one total rent, it was easier to conceal some of the extraordinary operating costs. There may not be as clear an understanding of what was permitted and what was not permitted and why. It was for the purpose of clarity for the tenants so that they would really understand what was going on and have the information available that the request was made. But I hear the point you have made.

The Chair: Any further questions, comments? If not, shall subsection 11(2), as reprinted, carry? Carried.

Section 11, as amended, agreed to.

Section 12:

The Chair: Subsection 12 (1). This is a government amendment.

Hon Ms Gigantes: This amendment was essentially necessitated by our decision, as a result of the discussions that went on in the committee during the summer, that we should set one guideline, no matter what the size of the building. That is what the amendment accomplishes.

The Chair: Are there questions, comments or amendments?

1700

Mrs Caplan: Subsections 12(1) and 12(2), is that the government motion?

The Chair: It is 12, but I think we should go through them perhaps (1), (2), (3) and (4). Your explanation had to do with them all, is that correct?

Hon Ms Gigantes: That is correct.

The Chair: We will deal with subsection 12(1).

Mrs Caplan: Just for clarification, there are a number of amendments to section 12. Is there just the one government amendment that we are dealing with, subsections 12(1) and (2)? Is that what is before us now?

The Chair: Yes.

Mrs Caplan: I would like to speak to that, then. There are some subsequent amendments to this that I wonder if it would be possible to reorder and deal with first, because I would like to see whether those would be possible. This one deals with the 55%.

Interjection.

Mrs Caplan: No? On subsections 12(1) and (2).

Hon Ms Gigantes: Are you concerned about placing the Liberal motion we have been given? That relates to section 12, but only paragraphs 12(1)3, 4 and 5, right?

Mrs Caplan: No, there is a Liberal motion on subsection 12(1).

The Chair: It might be helpful. I think it is going to be necessary to go through paragraphs 12(1)1, 12(1)2, for example, because there are some amendments to various parts of this. We will deal first with paragraph 12(1)1.

Mrs Caplan: Paragraph 12(1)1 is the amendment by—

The Chair: We have a Conservative amendment to that section. Mr Tilson.

Mr Tilson: We have distributed the proposed amendment to paragraph 12(1)1.

The Chair: Mr Tilson moves that paragraph 12(1)1 of the bill be struck out and the following substituted:

"1. Determine the rent control index taking into account the weights and the three-year moving averages of the operating costs for hydro, heating, municipal taxes, garbage tippage fees, water and sewage fees, insurance, cablevision, superintendent's salary and rent, maintenance, and those provincial and federal taxes the landlord must pay in order to maintain the residential complex, as set out in the prescribed table."

Mr Tilson: We have had a great deal of difficulty. In fact, the minister and the government have indicated they simply are not going to provide any regulations in advance for this committee or for purposes of the House prior to Bill 121 being voted on in the House. Throughout all the cities we spoke to, we heard the representations express concern on a number of these items that we have specified which were not being taken into account by the government.

For example, the whole subject of garbage tippage fees: We raised this during the Bill 4 debates and that was voted down, with some indication by the former minister that it would be dealt with in this legislation and it is not. If there is some explanation in the regulations or if we produce regulations, then it may not be necessary, but we have no understanding it is going to be referred to. We all know what is happening with our environment and how tippage

fees are going up around the province and the tremendous effect this is going to have on the operation of apartment buildings. That, we believe, should be taken into consideration.

The same goes for insurance, all these matters. The government appears to be taking the position that there are not going to be any increases in any of these items in the years ahead, that they are going to stay the same, whether tippage fees, water and sewage fees, insurance, cablevision, superintendent's salary and rent; just general maintenance to the buildings, provincial and federal taxes. I do not want anyone to start giving us the old routine about pointing to what Ottawa is doing. We must start looking to what the province is doing.

Unless there is some undertaking that there is not going to be any further increase in taxes—which we have been trying to get out of the Treasurer, of course, for the last number of days and have failed—to indicate what he is going to do, surely those items must be considered. Otherwise, where in the world is the landlord going to get the money to operate these buildings?

Insurance rates, whether fire or liability, for whatever reason, appear to be going up. We have had estimates that hydro is going up. For all the items that are referred to, there is very strong indication that the costs to a landlord are going to go up, so the purpose of the amendment is to establish new guidelines upon which the rents will be calculated.

We may not even have all the cost factors. That is another difficulty, but these are as many as we can think of; there may be others. These are the main ones the government appears to have left out for some unknown reason, but these additions ensure that all cost factors will be considered and weighted in calculating the rent control index, because they do not appear to be anywhere in the act as amended and printed as to working into the calculation of the rent control index.

Unless the government is going to put forward the regulations—unless it has changed its mind since the last meeting, which I believe was two weeks ago—I submit this is a most relevant amendment. If we want our apartment units to be viable to operate, if we do not want slums created, then there has to be a certain amount of realism put forward as to what the costs of these buildings are to operate.

That is the the general intent of the amendment, Mr Chairman.

The Chair: The minister and then Mrs Caplan.

Hon Ms Gigantes: I draw to Mr Tilson's attention—and I am sure he is aware of it—the fact that the ministry has circulated material related to what the guidelines should be under this legislation; in other words, what would be the prescribed table in section 12(1)1. I will just take a moment to explain this: The only item which might be considered new in Mr Tilson's suggestion would be the tippage fee, which I think we would be quite prepared to consider in the consultation process, if that is any reassurance to him.

As far as provincial and federal taxes are involved, they would be included in the items enumerated here. The costs for those items within the table would include the taxes associated with either services or utilities. So if he takes a look at the material which has been circulated and on which the consultation is going on right now, he will understand that the only item he is adding is tippages.

1710

I would prefer not to spell out these items in the act itself because it means that, if for any reason in the future there is a change in some component of the operating cost structure which landlords are facing, we would have to come back and amend the bill to take account of that, which would be quite cumbersome. I believe it has been the pattern previously, both under the Residential Tenancies Act and the Residential Rent Regulation Act, to have the guideline set out by regulation so that if it is to be changed to reflect changes such as the one he mentioned, tippage fees, we would not have to come back and go through a whole opening up of the act. We could do a consultation around it as we are doing right now and set up a more reasonable guideline structure that way.

Mrs Caplan: This section is a very significant one. As the member for Oriole, with a very significant tenant population, my goals have been to ensure tenant protection, particularly protection from gouging, and to make sure tenants have homes that are well maintained and decent places to live at the same time as ensuring fairness for landlords. So this legislative package is a very significant one and is of interest to my constituents.

Because of the significance of section 12 and the work our critic, Ms Poole, has done, I would ask if the committee, with unanimous consent, would stand down sections 12, 13 and 14 for today. We would be very pleased to proceed with section 15 at this time to help move the sections of the legislation. We would like to speak particularly at length and feel that there will be some discussion. We have some serious concerns with sections 12, 13 and 14 and I do not believe they are going to be dealt with today should you require extensive debate. If you would stand them down, you might be able to make some progress on the other sections of the bill.

The Chair: Do I have unanimous consent to stand down sections 12, 13 and 14? Agreed. We will then move to section 15.

Section 15:

The Chair: One minute, please. The parliamentary assistant has an amendment to subsection 15(1). Do you have an explanation, please?

Ms Harrington: Subsection 15(1) provides for a landlord to base an above-guideline-increase application on eligible capital expenditures. The capital expenditures may be with respect to the residential complex or one or more rental units. This subsection applies to work completed on or after June 6, 1991.

A technical amendment has been made to subsection 15(1) to remove the word "whole" when referring to "residential complex," because such an application can be made for capital expenditures that affect only part of the residential complex.

This amendment also clarifies that capital expenditures incurred on or after June 6, 1991, but prior to proclamation, are covered by the Rent Control Act.

The Chair: Are there questions, comments or amendments to subsection 15(1) as printed? Seeing none, does subsection 15(1) carry? Carried.

Mr Tilson: We have an amendment to subsection 15(1), Mr Chairman.

The Chair: Whoops.

Mrs Caplan: We will give you unanimous consent to reopen.

The Chair: Can we have unanimous consent to reopen?

Mr Tilson: I am sorry. I was talking to—

The Chair: I am sorry. We should have noticed too. We did not.

Mr Tilson: I think we did provide notice to the members of the committee that we were putting these amendments forward.

The Chair: We have unanimous consent. We are going back.

Mr Tilson moves that subsection 15(1) of the bill, as reprinted to show the amendments proposed by the minister, be amended by adding at the beginning of the subsection the following:

"15(1) Subject to subsection 15(4)."

Mr Tilson: This too is a technical amendment and relates to the amendment we are going to be proposing in subsection 15(4). Our amendment to that section allows for those landlords who received an advanced determination for capital expenditures which have been frozen since then to carry out the work. That is the general intent of that amendment.

Ms Harrington: From my understanding, this is a technical amendment in order to allow subsection 15(4) to have no cap on the capital work. Since we are opposed to that, we will be opposing this.

Motion negatived.

Mr Tilson: May I have a brief moment, Mr Chairman? Mrs Marland has just returned.

The Chair: We will just pause for a moment.

We are back in business, are we?

Mrs Marland: If we had more than 20 in our caucus, we would not have to be wearing two hats between the committee hearing and the debate in the Legislature.

The Chair: I will not comment, Mrs Marland.

Mrs Marland: I say respectfully that your members have been doing the same thing by necessity, Mr Chairman.

Are we on the government motion, subsection 15(1)?

The Chair: The Conservative Party's amendment to subsection 15(1) failed. We are now on subsection 15(1). Are there questions or comments to subsection 15(1)? Is it the pleasure of the committee that subsection 15(1) carry? Carried.

Are there any questions, comments or amendments on subsection 15(2)? Seeing none, shall subsection 15(2) carry? Carried.

There is a government amendment to subsection 15(3).

Ms Harrington moves that subsection 15(3) of the bill be struck out and the following substituted:

"(3) A capital expenditure is not eligible if it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it."

1720

Ms Harrington: Subsection 15(3) provides that to qualify for an eligible capital expenditure, it must be found that the item was not necessary as a result of neglect. It will be the responsibility of the landlord to demonstrate this. Neglect is with respect to maintaining the residential complex or any rental unit in it. It can be either the current landlord or a previous landlord. Note that clause 15(3)(b) has been removed, as capital expenditure replacement provisions are now covered by the cost-no-longer-borne provision.

The Chair: The Liberals have an amendment to this section as printed.

Mrs Caplan moves that subsection 15(3) of the bill be struck out and the following substituted:

"(3) A capital expenditure to replace a system or thing is not eligible if the system or thing does not require replacement."

Mrs Caplan: We think this is very important. We think the desire of tenants is to have needed repairs done. What I have been told by my own constituents is that they want better maintenance. They want buildings maintained. What they are angry about is that often they are being charged increased rents for things that did not need to be fixed and for systems, whether they are water systems or electrical systems, that do not need to be replaced. Our amendment would be very clear: A capital expenditure would not be eligible if it was unnecessary. That is what this amendment deals with. I hope the government will include this, because it is the sort of thing I have been hearing from tenants. Our critic felt very strongly that this was an important addition to this piece of legislation.

Mr Marchese: I have a question to the speaker. Subsection 15(3) as proposed by the government suggests one thing in that it talks about how all or part of the capital expenditure is not eligible to the extent that it became necessary solely as a result of persistent neglect. Your motion appears to be replacing all of that with something completely different, as opposed to this. Are you in agreement with this?

Mrs Caplan: It is our feeling that you are going to have a great deal of difficulty enforcing this section of the legislation. As a former member of North York council, I know how difficult it was for tenants even to get work orders placed on the buildings. That is very difficult to do. To prove neglect is going to be difficult, simply because what is neglect is often in the eye of the beholder. We think it will be much clearer and easier for tenants to be able to come in and say, "This was necessary and this was not necessary." The test of necessity is much easier to prove than neglect. We think this offers greater tenant protection, because when they come to try and show what was neglect, that is a totally new concept. We think to take the concept of necessity, which is easy to prove, would be an improvement to the legislation. You know whether you

need a new fridge or a new stove or whether you have to replace all the electrical wiring in the building. Whether it is needed can be proven. The concept of whether you have neglected maintenance and repair is, I think, unenforceable. What you are doing with that concept in the legislation is not in the interest of tenants.

Ms Harrington: I understand why you are putting this forward. It is a very difficult concept. We will not accept this amendment. We believe the test for neglect is a very important protection for tenants and this is a very important part of our bill. But I understand that it is difficult and I would like Colleen to comment on the test.

Mrs Caplan: Perhaps I can ask a question of the counsel or the policy adviser. Has this concept ever been in any legislation before?

Ms Parrish: There are variations of this test—

Mrs Caplan: But this is new.

Ms Parrish: —but the exact wording of this test does not exist. It is similar to the test in the RRRA. Essentially what we did was to take the test in the RRRA and we analysed why it was not a very good test. One of the reasons it was not a very good test was that people had to show there was some sort of deterioration. Since hardly anybody was around, it was very difficult to show some sort of change over time, because you had to actually show that things got worse over time. At some level you could actually be in the ironic situation where things did not get worse over time but were still, at some objective level, really terrible and you could not pass the test. So the idea was to look at the old test and take out the things which had caused it to be almost unusable as a test.

There is no doubt there is an exercise of judgement in asking, "Is it necessary because of neglect?" just as there is an exercise of judgement in asking, "Is it necessary for structural integrity?" Obviously you are going to have to look at evidence, and the evidence is likely to vary from building to building. It is like any other question of judgement of evidence. That is the sort of question I would add. We have tried to move to a situation where you look at neglect causing repair. Those are fairly straightforward approaches.

The second issue I think you are speaking to is that this amendment, in addition to maintaining the neglect test, takes out the test that said you also had to show that a thing or system required replacement. The reason for that, in my understanding of the government's explanation for this, was that with the costs-no-longer-borne provisions coming in, you could be in a very difficult position if you were a landlord. The problem would go sort of like this: If you bring it in too soon, people will say, "It doesn't need to be replaced." If you bring it in a little too late, it would either be neglect, because you did not do it on time, or the allowance may have come out under costs no longer borne.

We felt that with the addition of costs no longer borne, it seemed like a lot of regulation of the same thing. It got to be like the porridge test: It is too hot, it is too cold, it is just right. Landlords would almost be in the position of having to have superhuman perception to get it exactly at the right second. So we just felt that under the circumstances, with costs no longer borne, it might be perceived as over-regulation of the replacement issue.

I agree with you that tenants are concerned about this issue. I also think tenants are very concerned about the issue of neglect and the situation where there is a perception that a landlord has allowed a building to fall apart and then has come in and received rent increases.

Mrs Caplan: I would like to put on the record that I do not think this section, as you have it, is enforceable. I do not think you are going to find that it does what you want it to do. I believe there would be better protection for the tenant interests if you accepted the amendment we have put forward, which has the test of necessity for replacement. I think that is more enforceable and is a better test to have in the legislation. I just want to be really clear: We do not think your approach is going to work and we do not think you will be able to enforce the tests of neglect.

Ms Harrington: We certainly hope this is going to be an important protection for tenants. That is the whole idea behind it.

1730

Mrs Marland: Mr Chairman, I heard a motion moved by the government, and then I heard a motion moved by the Liberals, and then I heard discussion on the Liberal motion.

The Chair: Yours will be next.

Mrs Marland: My comments are really on all three motions. How are you taking our comments, since the Liberals just made their comment on their motion?

The Chair: We are dealing at the moment with the Liberal amendment to subsection 15(3). The committee has decided—

Interjection: By unanimous consent.

The Chair: —by unanimous consent, that the bill, as printed, is what we are dealing with. So we are dealing with the Liberal amendment. We are cognizant of the fact that your party also has an amendment to this section, so when we are finished dealing with the Liberal amendment, we will deal with your amendment. Is that clear?

Mrs Marland: Can I speak to what was the government amendment, which is now—

The Chair: No, you will speak to the Liberal amendment. Then we will deal with your amendment and then we will deal with what the government's amendment, so to speak, is.

Mrs Marland: Because it is part of the bill.

The Chair: Do you wish to speak to the Liberal amendment?

Mrs Marland: Yes, I do. I just listened very carefully to the policy adviser, who talked about making this section enforceable. I agree totally with the Liberal member who said this is not enforceable. Of course it is not enforceable, because there are no clear definitions. I think the policy adviser said there would be examples where it would require superhuman perception to make the interpretation. I do not know who these rent officers are going to be; I do not know where they are going to be trained. Since they

are the enforcers of this section, I would ask the parliamentary assistant, how are you going to train rent officers to interpret this act?

Ms Harrington: I think what our policy adviser was trying to say is that the definition for "necessary" was a very difficult one timewise, and I think we heard this before under Bill 4 or during the committee hearings, and we understood that. We were trying to make a test for neglect that is workable, and I believe our policy adviser was explaining to you that this test for neglect would be more workable than trying to define exactly the timing of "when necessary."

Mrs Marland: Okay, now could you answer my question about the people who are going to interpret this test? They are the rent officers, I assume.

Ms Harrington: I am not exactly familiar with how the enforcement is going to work, but I will ask Colleen.

Ms Parrish: Yes, the decisions, under the statute, are made by rent officers.

Mrs Marland: Right. So if the decisions are made by rent officers, could you tell me how those rent officers are going to be trained to recognize neglect causing repair? What kind of special training are they going to have in order to enforce this act?

Ms Parrish: We will be having a training process for rent officers for the new statute, as we always have when we change any element of the bill. In fact, recognizing neglect under the new statute is significantly easier than under the previous statute, which was very difficult. In any event, I think recognizing neglect is an easier decision than deciding whether or not something did not need to be replaced, and that was the point I was making. That is why we do not have a provision in our statute in relation to when something has to be replaced. But I understand from my operational colleagues that they have a plan of education and, in addition to that, we have the capacity to pass interpretative rules under the statute, if those should become necessary.

Mrs Marland: Who are these rent officers going to be?

Mrs Caplan: Civil servants, bureaucrats.

Mrs Marland: Yes, I understand that. I know they are going to be civil servants, but who is going to be trained to be able to look at a building and decide on the structural integrity of that building? If it is the balcony, for example, that people stand out on at 27 or 37 floors above the ground, and they step out on the balcony of an apartment about which a tenant has said, "I'm concerned about the structural safety of my balcony because I happen to live on the 29th floor," and the challenge is made under this act and the rent officer comes and looks at it and says, "Yes, the structural integrity is safe," or, "No, it isn't safe," I want to know what kind of training that individual has to make that decision and who these people are.

I say with respect to the parliamentary assistant, it is not good enough to say you have a plan to train these people. We need to know exactly who they are and what the requirement is for them to be eligible to make a decision on structural integrity. Are they going to be structural engineers? I can assure you that I would not want the responsibility of making the kinds of decisions that we are talking about that might or might not be under this section and qualify as a capital expenditure.

Ms Harrington: Certainly your point is well taken that the opinion has to be a valid decision. It has to be someone who knows exactly what has to be in the building structurally. I would like to ask Colleen to comment on whether municipal inspections are going to be involved in this or whether it is going to be from the rent review office. Definitely we have to have people who are qualified.

Ms Parrish: The capacity to call evidence in the bill is very broad and it is like being a judge. If you are a judge, you do not have to be a structural engineer or whatever. What you have to do is be a person who says, "Ah, I need this kind of evidence," and you ensure that the evidence is before you. The rent officer does not personally go over and take samples of concrete. What they do is ensure that the evidence on which they make a decision is before them. That is essentially how all decision-making bodies operate, because no one person could have every kind of expertise.

But if a landlord is coming forward and making a very straightforward application to replace the roof which is 20 years old, you would have probably a pretty straightforward kind of evidence. If you are dealing with a much more complex kind of case, you would have somewhat more complex evidence, but there are quite wide powers in the statute to request additional evidence from the parties if there is some technical issue involved.

As well, for example, there may be municipal work orders on the building and municipal officials may testify as to various structural problems or whatever. It depends on the kind of case. But the individual would look at the evidence, and evidence is tested by the other parties so that the landlords and tenants can ask questions of the people on the other side and test their evidence.

1740

Mrs Marland: Okay, so now you are saying the rent officers are not going to have the expertise; they are going to have to call for experts in whatever the field is to gather the evidence.

What I would like to know is, who is going to pay now for the evidence that is required by the rent officers? Who is going to pay for the opinion of a structural engineer or a roofing contractor to come in and say, "This should be done because it needs to be done now," or even worse, to have somebody come in and say, "You know, this should have been done 20 years ago"? But they have no evidence to prove that it was needed 10 years ago, let alone 20 years ago. How do you see this evidence being gathered, and who pays for the professional opinion?

Ms Parrish: The statute provides for a number of possibilities. One is, where the municipality is involved and it has issued a work order, then it has already paid for that regulatory action and, in most cases, it would be pleased to adduce the evidence because it wishes to have the defect in the building dealt with.

In many cases the evidence is quite straightforward. For example, there are provisions that say that something has to be done because it is a requirement under the fire code or whatever. That is not very difficult evidence to obtain and it does not cost very much to obtain. There are some issues that may become complex, and it may very well be that landlords will have to bring in some information, just as they do under the current statute—about why they are doing this or what it is for. There is also the capacity in the statute for the rent officer to order an inspector to do the inspection, in which case it would be paid for by the rent control services. Obviously, however, it is up to the parties to prove their case. It is their case; they are the people who want whatever.

Mrs Marland: Okay, if it is up to the parties to prove their case, and I think you were suggesting the landlords in the example you were just giving—

Ms Parrish: It could be the landlord; it could be the tenant. It depends on who is proving the case.

Mrs Marland: Okay, I did not bring in the fire code because, first of all, the enforcement of the fire code is straightforward. That has already been paid for by the owner of the building and the tenants in the building through their municipal property taxes, because the enforcement of the fire code is the responsibility of the fire department in the municipality.

What I am talking about is, we have two possibilities here. We have the possibility of a tenant claiming neglect and we have the possibility of a landlord being challenged on what work is required, based on the complaint of neglect by the tenant. My question to you is, who pays for that information in that situation? Is the onus on the landlord to pay for professional advice about whether the structural integrity of the building is in place, or is it upon the person who is appealing or grieving under this section of the act? It becomes so complicated because there is nowhere in this act that you have the word "neglect" defined.

If your answer is that no, it is not defined, it is up to interpretation and the interpretation is done based on evidence, I just want to know, before we pass this, who is paying for the evidence. If you are asking a tenant who can barely pay his or her rent and who has a legitimate concern about something that is unsafe—maybe he is concerned about the wiring in his old building because he has had some problem with electrical outlets; maybe he is concerned about the fact that he has a new stove that is not working correctly—are you saying that whatever the complaint is by the tenant in that building, he has to provide evidence of neglect?

Ms Parrish: Anybody who wants to adduce a case has to provide evidence. Perhaps where we are getting a little tangled up is in the assumption that the only kind of evidence that counts is expert evidence.

Mrs Marland: No, that is not what I am saying.

Ms Parrish: In fact, tenants can come forward and say, for example, "I have lived in this unit for 10 years and my windows have never been caulked." That is evidence. You do not have to have a structural engineer to give every piece of evidence. There are kinds of evidence. I am a public servant, so I am trying to explain what these sections are. Sure, there is a range of evidence, but not all evidence has to be expert testimony.

Mrs Marland: No, I agree.

Ms Parrish: There could be cases where parties will wish to call expert testimony, and that is not prohibited, just as under the current statute parties call expert testimony. But it is not required. They have to have evidence of some kind. They cannot simply say, "I say there is neglect." And then I say—I am the rent officer—"Why is there neglect?" They say, "That is just what I say." There has to be some why, but that evidence may or may not be expensive. It may or may not be professional or technical evidence. In fact, in many cases, the evidence of long-standing tenants as to what actually happened in the building is good evidence, and if their testimony is credible, that evidence is just as good as any other kind of evidence. But there is a range of potential kinds of cases that could occur.

Mrs Marland: Absolutely. I am not disagreeing with you, and that is not the point I am making. I totally agree with what you have just said, because it stands on its own. Even a new tenant moving in who finds there is a gale blowing through the window can recognize whether the windows have been caulked recently or not.

But take, for example, the new tenant who moves in and takes his lawn chair out on the balcony and while he is sitting there realizes there is a tremendous amount of rust and erosion to the iron railing on his balcony going down into the concrete platform he is sitting on, and then he reaches over and he finds that this moves, so he is concerned about the safety of the iron railing. Then he may even be concerned enough to want to question whether, through neglect, the iron railing has not been maintained, but also that there is some structural failure possible with the platform of the balcony itself. As a tenant, what happens if I phone the ministry and say: "I have this concern. I want to know who is going to make the decision as to who pays for the evidence to make a decision on the structural safety of that balcony"?

Ms Harrington: I would think that normally the tenant would either call the local rental review office or, if he wanted an inspection to have a qualified person assess the danger or the situation, he would normally call the municipality and have an inspector come and assess the situation for him in that kind of situation.

Mrs Marland: So what you are saying is that the possibility of structural failure in a building and the decision on the structural integrity of a building is the responsibility of the municipality to interpret?

Ms Harrington: I know with all kinds of things within a building, whether it is electrical or plumbing or the heating system, the tenant does contact the municipality and it would issue a work order if it felt something had to be done. I would think the same situation would occur here. If you get into very technical things, such as whether or not the cement is in a very dangerous situation, then maybe the municipality would have to go a little further and bring in an expert.

1750

Mrs Marland: Right. That is where the crunch comes, because up till then this is all very straightforward. We have now found that the balcony is unsafe and the balcony railing is insecure and the tenant out on the balcony is now unsafe, and the municipality has paid for staff to make that judgement.

Now what we have is the question under the legislation we are debating here this afternoon in subsection 15(3) of whether the existing situation with my unsafe balcony is because of neglect. That is the point at which we deal with an opportunity for the landlord, the property owner—as soon as you use the word "landlord" there is a connotation that goes with it, so I am going to refer to the property owner, the person who is responsible for ensuring that the balcony is safe, only as an example—now we are dealing with the question of whether he is eligible to pay for this as a capital expenditure or not.

It is so critical because the interpretation of whether or not it is neglect decides on opportunities for that property owner to recover the costs, and if we are talking about something structural, we are talking about a major expenditure. When I say "recover," I mean get the money to pay for it: I do not mean to make a profit on it but just get the money to pay for it out of the income from the building. That opportunity pivots on this section of the bill, which says, "A capital expenditure is not eligible if it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it."

That is such a powerful section, and I suggest that unless you can come up in the next two weeks with a better, or any, definition of "neglect," which currently does not exist, you cannot go forward with a section that would be totally unenforceable because there is no definition.

There were examples in Bill 51 which were difficult to enforce because of the words. The words did not have a qualifying description and they were open to a whole latitude of interpretation. In this case, we have tenants possibly at risk and we have the property owners possibly at risk, because the work needs to be done, and who is going to pay for it? It all pivots around these people we call rent officers, and we do not even know what their training is going to be.

Mrs Caplan: I just have a very brief interjection, if maybe you would allow it.

Mrs Marland: That is fine.

The Chair: Brief interjections might be permitted.

Mrs Caplan: They are very brief. I think Mrs Marland raises a very good point. She refers to Bill 51, which, as I said earlier, was a very complex piece of legislation. It introduced some new concepts which proved to be difficult to enforce. The point that I believe needs to be made is that I think what has been produced by the government is not going to serve the interests of tenants because it again introduces all these new concepts. If I were offering advice, I really would suggest that it would have been in the interests of fairness to landlords and simplicity and a greater understanding for tenants if you had chosen instead to bring forward amendments to Bill 51 to have made it better, to address those areas where it was not working as well as we had all hoped it would, rather than bringing forward this whole complex new approach, which I think is not going to serve tenant interests and will lead to the kind of confusion Mrs Marland has just spoken to.

Ms Harrington: Certainly that is your opinion. We have been dealing with this now for some time and, as you know, we have a commitment to bring forward a system that works well for tenants and enables landlords to maintain these buildings. This is a reflection of that.

This particular section is very significant. It is what we feel is the real crux of the protection for tenants, and that is this word "neglect." I know it is going to be difficult, and possibly I could ask my policy person to try to revisit that definition or test. I think there are other people who may want to comment further.

The Chair: Actually, I have two members on the list right at the moment. Mrs Caplan was just in there for a brief interjection. Mrs Marland did have the floor with a question to the parliamentary assistant.

Mrs Marland: If I may respond to the parliamentary assistant, for whom I have personal respect, I have to wonder, Margaret. When you say this section enables landlords to maintain these buildings, if we are talking about a major expense, it is this very section that does not enable them to correct it, because they risk under this section, with the latitude of the interpretation of the word "neglect," not being able to claim what has to be done as a capital expenditure. That is what is wrong with this.

When you say it enables them to maintain these buildings, what about the property owner who just bought the building, say, in the last five years, and there is an example of something that, through someone's interpretation, may be directly attributable to neglect, but it was neglect five, 10 or 15 years ago? Maybe it was a building that through some void in administration missed an inspection in a certain area, and maybe now the building is at risk because there is a structural fault in that building.

This is not fictional. There have been examples where cement has not been the right strength for that use and application of concrete, for example. That can be interpreted as neglect at that time, and now, 10 or 15 years later, somebody is going to come along and say: "It was neglect. It can't be eligible as a capital expenditure."

I am simply asking you, "Who is going to pay for it?" If it is not eligible as a capital expenditure—and you can talk about any example you want to give, that is thousands upon thousands of dollars worth of work. There will be two options. You will either allow it as a capital expenditure and the work will get done or the work will not get done and the building will be shut down and those tenants will be out of their accommodation.

It is great to think, "We're going to make these decisions on what's neglect and what's eligible as a capital expenditure." In the real world, what is going to happen, whether you like it or not, is that it becomes a capital expenditure by the very volume of cost itself. If we say, "Oh no, it's neglect, it's their fault. If it had been done earlier, it wouldn't have happened. It should have cost less," the fact is that today they will not be able to borrow

the money to invest in making that major repair, and they are not eligible under the capital expenditure clause.

I realize we now have a vote, with the bells ringing, but I look forward to our getting back to this debate.

Ms Harrington: I cannot comment?

The Chair: We are being called to the House for a vote. I will recess the committee. I suggest we will take up this matter on Thursday at 10 am. We are adjourned.

The committee adjourned at 1759.

CONTENTS

Thursday 21 November 1991

Election of Chair G-1721
Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1721

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Première session, 35e législature

Journal des débats (Hansard)

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 28 November 1991

The committee met at 1018 in room 151.

ELECTION OF VICE-CHAIR

The Chair: The first order of business is the selection of a vice-chairman. Do we have any nominations for vice-chairman?

Mr Abel: I would like to nominate Mr McClelland.

The Chair: Are there further nominations?

Ms Poole: I move that nominations be closed.

Motion agreed to.

The Chair: Thank you, Mrs Poole. Carried. Congratulations, Mr McClelland.

The Vice-Chair: May all my elections in the future be so easy and straightforward. Thanks. I look forward to this.

RENT CONTROL ACT, 1991

LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation / Projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

Section 15:

The Chair: The business of the committee is to conduct the clause-by-clause examination of Bill 121. Presently, members will be aware, we are discussing a Liberal amendment to subsection 15(3).

Ms Poole: Although I was not here last week, I understand that we are in the midst of debating a Liberal amendment to subsection 15(3). Is that correct?

The Chair: That is correct.

Ms Poole: I think this amendment is very important and gets to the crux of the matter when dealing with tenant protection. In my riding of Eglinton, one of the most contentious issues that came up was that of luxury renovations, of tenants having things replaced that did not need replacing. They had perfectly beautiful cabinets in kitchens and bathrooms that were in excellent condition, and the landlord tore them out to put in pre-fabricated cabinets, inferior products. It became an issue of, was it necessary to replace or repair that item?

This is what this goes to the heart of. If we are looking at the issue of neglect, it is extremely difficult to prove neglect. I have a great deal of problem with the government having a provision in this bill that rent reductions can occur because of neglect; however, it does not define it. This makes a lot more sense, because it makes the "necessary" component the test, as opposed to "neglect." Tenants in the past have expressed great reservation about the criteria for neglect. The government has changed it, but what it has done is say: "We're not going to define 'neglect.' Instead, we are going to leave it up to the rent review officer to determine whether it is neglect."

I can tell the government that tenants are not happy with that. Landlords are unhappy with that. They say: "We want it defined. We want to know what we're dealing with before we get into this." The type of test we have proposed in subsection 15(3) is a much more realistic test. It is one that can be verified, that can be documented. You can use amortization tables, but certainly you could use expert testimony about whether something needed to be replaced or not.

When it comes right down to it, the Liberal caucus is saying, "Either define 'neglect' or remove it from this act." We are saying: "Make a test that is enforceable so that tenants and landlords will know the ground rules before they go to rent review. It is unfair to expect anything else."

I can tell this ministry that if you are relying on rent review officers to make those types of decisions, the people of this province do not have faith they can do that. They do not have faith about consistency. They do not have faith in their training and that they will make the right decisions. I think you are going to find there are going to be widely varying precedents established by different rent review officers because you are not giving them the guidelines they need.

If you are then going to say, "Okay, we'll do it through regulation," I again have a problem with that, because regulations are at the whim of cabinet. Certainly the legislative process has no part in making the regulations. They come to us as a fait accompli, an order in council, and the Legislature has no opportunity to have input or debate or anything else.

What the Liberal caucus is saying with this amendment is, "Define 'neglect' or remove it, and put in a reasonable test," and that is what our amendment is all about.

Mr Marchese: I have some sympathy for the idea, but I argue differently, however. What they are arguing is to substitute something else for subsection 15(3). In my view, there are two different notions here; both need to stand separately. Subsection 15(3), in my view, needs to remain, because neglect is something that needs to be there, and if something is being replaced as a result of not having been done over a period of so many years and it should have been, then it needs to remain as it is.

The whole point of what they are arguing should be added is, in my view, also worthy of being considered, that a system or thing that is replaced does not require replacement. I believe their substitution reads differently, but it has the same effect.

To argue for substitution is a mistake, but to include the addition is a reasonable thing, because it gives tenants double protection from something that could become vague in the legislation. Although it is quite possible others

will argue that it is quite clear, I believe it could result in some vagueness, to the extent that some things could be replaced and would be eligible. The point of including by addition, as opposed to including by substitution, I would argue is useful because it does not take away from what is there in section 15, and it adds to subsection 15(3).

I would like to ask the minister whether or not she believes that by adding what the Liberals are suggesting would give tenants more protection and would not take away from what is already there. Therefore, why not include it?

Ms Poole: On a point of order, Mr Chair: I have to go up to the House in approximately two minutes to speak to a resolution. I wonder if, since it is a Liberal motion, I would be allowed to respond now, since I may not be here when we complete the vote.

Hon Ms Gigantes: That is fine with me.

The Chair: I think we have unanimous consent for that.

Ms Poole: Thank you. I appreciate the indulgence of my colleagues.

I perhaps should clarify that I have absolutely no problem in supporting the government concept of "neglect" as long as you define it. I concur that they could march side by side with having both neglect and the matter of replacing something if it is necessary. What I would really like to clarify is that we cannot accept your amendment regarding "neglect" unless it is defined. If it is in addition to it, that is not a problem, but the definition must be there for us to support it because we do think it is fair to the tenants and landlords of this province to have to go to rent review and not know what the rules of the game are. That is what it comes down to. I appreciate your comments in the spirit in which they are meant, but we do insist the definition be there.

Hon Ms Gigantes: I will try to address this very briefly. To begin, our experience of the determination of "neglect" comes out of Bill 51, where "neglect," in order to be a determinant of a decision by a rent review officer, must be "ongoing," and there is another phrase that modifies it which I have forgotten.

Ms Parrish: "Deliberate."

Hon Ms Gigantes: "Deliberate" and "ongoing": Those are the phrases that have made it so difficult for tenants to get any redress under the term "neglect." It is those modifications in Bill 51 that we know about, and the Liberals, having brought in Bill 51, now complain about experience under that bill.

To follow up your point, Mr Marchese, I have no objection to the addition of the Liberal amendment, but I do strongly object to the substitution of that clause, "A capital expenditure to replace a system or a thing is not eligible if the system or thing does not require replacement." I will not accept it as a substitute for the intent of this subsection 15(3), which is that we want to take account of neglect.

We believe that we can call upon rent review officers to determine neglect as long as it is not modified by "ongoing" and "deliberate." We think that is a very important part of what we are proposing to do here in terms of providing protection for tenants. If the Liberals want to amend their resolution to say that they want to add it to section 15, I have no objection. However, I do have an objection if they are trying to substitute it for subsection 15(3).

Ms Poole: As a point of clarification just before—

Hon Ms Gigantes: I thought you were gone.

Ms Poole: I should be up there right now, but if the minister is saying that she has no objection to our amendment if we renumber it, I would be delighted to make a friendly amendment to my own motion to renumber it.

Hon Ms Gigantes: No. That is not what I said. I said that if you remove the first part of your motion, which says that subsection 15(3) of the bill be struck out and the following substituted," I have no problem with the addition which is the essence of what you are adding.

Ms Poole: That is right. I have no problem with that, with renumbering it as paragraph 15(3)1 and taking out the part that says subsection 15(3) be struck out. We will still vote against subsection 15(3) because we cannot accept it without a definition. That is basically the position.

Hon Ms Gigantes: Could I propose the compromise suggested by Colleen Parrish. We had originally taken out the clause which would now be added, ie, "A capital expenditure to replace a system or thing is not eligible if the system or thing does not require replacement" precisely because we felt it was covered by the cost no longer borne amendment we are bringing in. We felt there would be absolutely no incentive on the part of landlords to replace a thing that did not need replacement with the cost no longer borne clause in there. However, there is no harm being repetitive. I do not think it is redundant to any extent at all.

1030

All we would have to do then is revert. We would withdraw our amendment, which is to delete the extra section that we felt had become additional and unnecessary. That would take us back to the original bill which includes the phrase, "A capital expenditure to replace a system or thing is not eligible if the system or thing does not require replacement."

Does that make everybody happy?

Mrs Y. O'Neill: I understand.

Hon Ms Gigantes: It suits me fine.

The Chair: Thank you, but we also have some more speakers on this bill.

Hon Ms Gigantes: That is fine; just testing.

Mrs Marland: The previous comments by both the government member and the minister point out the concern I was speaking to a week ago when we met to deliberate over this poorly drafted piece of legislation. I think Mr Marchese was saying that the Liberal motion would result in some vagueness. The whole problem with the government amendment to subsection 15(3) is that it is vague. We are trying to get a definition of "neglect." Nowhere in this bill is there a definition of "neglect." The minister in her response a moment ago just said, "It is 'ongoing' and it is 'deliberate.' It is ongoing and deliberate neglect."

Mr Marchese: That was taken out.

Hon Ms Gigantes: That is the current system, Margaret.

Mrs Marland: Then you are taking out "ongoing" and "deliberate?"

Hon Ms Gigantes: Yes.

Mrs Marland: That gives even less support or description for what "neglect is." I ask you again to give a definition in this bill as to what is "neglect."

Hon Ms Gigantes: "Neglect" is something that will be determined by the rent review officers.

Mrs Marland: Okay, so we are back to the determination by another person or persons.

Hon Ms Gigantes: As opposed to whom?

Mrs Marland: As opposed to the bill determining what "neglect" is. The government brings in a piece of legislation that is as powerful as this to the future of rental housing in this province and then says: "I can't answer that. It'll be determined by the rent officer." If you cannot give the answer, how is the rent officer going to give the answer?

Hon Ms Gigantes: By the facts of the case.

Mrs Marland: From this piece of legislation, that rent officer does not even have any guidelines towards the description of "neglect." It simply says "as a result of neglect." A week ago you said that if the rent officer does not have the qualifications to make a decision on neglect, then we call in the municipal authorities. I can assure you that I have discussed this legislation with the mayor of the municipality where I live, Mayor Hazel McCallion. Mayor McCallion assures me they do not have the number of staff that would be needed, nor is it their jurisdiction to run around arbitrating between landlords and tenants as to what is defined as "neglect."

Hon Ms Gigantes: No, it is not.

Mrs Marland: A week ago when I asked what kind of qualifications rent officers were going to have, or the rent policemen or whatever we want to call them, you said, "They're going to have some training," but you could not be very specific about what kind of qualifications they would have to have to make a decision that has tremendous implications for the people who have invested in this property. If you are saying to your rent officers, "Come into the ministry. We'll train you for six weeks or whatever it is, and then you can run out on the road with this bill and listen to complaints about neglect and you're going to be responsible for deciding what is neglect and therefore what is eligible for one type of expenditure or another," I just do not think that is being realistic.

I think it is being unjust. The tenant may be totally right about claiming an example of what he thinks is neglect, and it may be very severe neglect in that tenant's mind, but because the bill does not define "neglect," you are leaving the interpretation to a number of third parties, and not only to your rent officer because you have already admitted that the rent officers may not have the qualifications to define it. I think a week ago—I obviously do not have the benefit of Hansard because we do not get Hansard within a week for committees, unfortunately—I asked if, in a case in which they are talking about the structural integrity of a building, they are going to be structural engineers, and you said, "They may have to call in experts and it will have to be expert evidence."

Hon Ms Gigantes: I do not like to be misquoted.

Mrs Marland: Then please correct it. Please tell me what you said.

Hon Ms Gigantes: I never discussed this issue.

Mrs Marland: I am sorry. Then it was your parliamentary assistant. Maybe you were not here at the time we were discussing it.

Hon Ms Gigantes: I do not think you were here.

Mrs Marland: I beg your pardon?

Hon Ms Gigantes: I do not think you were here if you thought I was saying this.

The Chair: Perhaps the committee would come to order for just a moment.

Mrs Marland: Excuse me; let's be clear about this. Minister, when you are not here and the parliamentary assistant sits in your chair, who is speaking for the government? Who is giving me these answers? Are you saying that if you are not here you are not responsible for the answers? Those were the answers I was given a week ago.

Mr Tilson: Maybe this is all a mirage.

Mrs Marland: If you are sitting there now and saying, "I didn't say that," I respect that. Perhaps you did not give that answer to that specific question, but when your parliamentary assistant sits there in your chair and receives the same advice from your staff, are you saying that does not stand? If that is so, I accept it.

Hon Ms Gigantes: I am saying I was not here and if you thought I was you are mistaken.

Mrs Marland: All right. Then let's deal with it today. You are here today. Would you like to tell me today what qualifications the rent officers are going to have to define "neglect"? Would you like to tell us how this bill is going to work around this section?

Hon Ms Gigantes: Yes. It will be defined in practice based on the facts of the case by rent officers who are trained in the application of this bill. If there is controversy about the first two or three decisions that are made under the bill, then there will be a request, I am sure, for an additional judgement on the facts of the case. Then we will very soon have precedents set, very much as we do under all kinds of legislation. We do not tell people who are making decisions, whether they be rent review officers, pay equity officers, any kind of delegated authority decision-makers, exactly how to make judgements, because judgements are judgements and they depend on the facts of the case.

I think a question of neglect in terms of the maintenance and the physical structure of a building is something that can be verified. This is not a question where a rent review officer wades into a situation, talks only to impressionable tenants, never inquires from a landlord what the situation is—not at all. The officers are paid to make a balanced judgement based on the facts of the case.

Mr Tilson: It is going to be multiple choice.

1040

Mrs Marland: Since you did not answer the question last week, could you just clarify the process for me here? When you are not in the chair and your parliamentary assistant answers the questions with the help of the same staff you have, is that an answer on behalf of your ministry?

Hon Ms Gigantes: Yes, of course it is.

Mrs Marland: So when we get the Hansard of what the answers were from last week to my questions and it is not the same as you are saying today—

Hon Ms Gigantes: Do you mean that Margaret Harrington did not use the same words I used today? Is that what you are suggesting? Do you not think a rent review officer would ask for advice on a particular case of neglect? Does that not seem reasonable to you? What kind of weird world do you think is out there?

Mr Tilson: We are afraid.

Mr Winninger: You should be afraid of yourselves.

Hon Ms Gigantes: Mr Chair, I do not think this member is convincible on this question at all.

Mrs Marland: Mr Chairman, I am sorry the minister is getting so exercised because she is being questioned on her bill. That is her prerogative if she wants to get exercised.

I am simply saying there is no definition in this bill for the word "neglect." This is a very pivotal section. This section is very significant, because around that word "neglect" whirl thousands and thousands of dollars, maybe millions of dollars if we are talking about a major structural piece of work to be done on a huge apartment building. When the minister said a few moments ago that there would be additional judgement, would the minister please clarify for us what "additional judgement" means?

Hon Ms Gigantes: We will be getting to sections of the bill which the member should be aware of where we will be getting into the question of reviews of decisions and the possibilities for reviews. If I could, I would like to read the words of Ms Harrington from last week in response to Mrs Marland:

"Certainly your point is well taken that, you know, if a structural engineer—the opinion has to be a valid decision. It has to be someone who knows exactly what has to be in the building, structurally. Now, I would like to ask Colleen to comment on whether municipal inspections are going to be involved in this or whether it is going to be from the rent review office. Definitely, we have to have people who are qualified."

Mrs Marland: Excuse me. Could I have a copy of the Instant Hansard?

Hon Ms Gigantes: If the member is pretending that there is a huge rift in the government position on this, it is just a time-wasting device. Obviously, if there is a question of structural integrity that causes danger to the health or safety of tenants, notwithstanding the mayor of Mississauga, it is a matter that the building inspectors of Mississauga will be interested in.

Tenants certainly have a right to call upon them in such cases and I am sure the decision of a building inspector would be taken into account by the rent review officer as he or she makes a determination in such a case. In cases where there is a simple question of neglect that may not affect health and safety, I think even a person of Mrs Marland's capabilities might be able to listen to a landlord, listen to tenants and make a fair determination.

Mrs Marland: She is being pretty insulting. Minister, I take personal exception to your comments.

Hon Ms Gigantes: Yes, you always do.

Mrs Marland: For you to say, "even a person of my abilities," is a very insulting statement. If that is the way you want to play, I do not plan to lower myself to that kind of debate. I have never had a minister be so insulting, Mr Chairman, as to say, "even somebody of my ability." That is pretty low for a minister to say something like that.

If the minister thinks that my questions are time wasting, then that is her opinion. If this legislation was so terrific and so comprehensive, it would not have required 99 changes by the government after it brought it in, nor would we have a minister who says she personally needs to give more thought to some of the matters that will be associated with the act. Can you imagine a minister bringing a bill into this Legislature while she is still thinking about it? I think that is a reflection of what we are dealing with.

Hon Ms Gigantes: It is a misquote.

Mr Tilson: Hansard is wrong.

Mrs Marland: I am sorry; it is not a misquote. This is a Hansard I have, and for the benefit of the minister I will read it.

The Chair: Perhaps we could return to the debate on the amendment to subsection 15(3). To be helpful, Mrs Marland, your party has an additional amendment to this section.

Mrs Marland: That is true, but I just want to clarify the record, Mr Chairman, so that there is no question. The minister said, "Some of the matters that will be associated with the act I personally need to give more thought to." That is an accurate quote.

Hon Ms Gigantes: We were discussing the regulations, not the legislation.

Mrs Marland: The legislation refers to "neglect." I am asking for a definition of "neglect." You referred a moment ago to receiving additional judgement. Where will the additional judgement take place, in court? Are you going to set up a tribunal to deal with additional judgements on this bill? Can you answer that question?

Hon Ms Gigantes: Yes, I can answer it by suggesting you read the amendments we have tabled.

Mrs Marland: It does not matter how many amendments there are dealing with how the judgement or where the judgement will take place, if we do not have a definition against which to measure neglect, so I am asking for a definition of "neglect."

Hon Ms Gigantes: It will depend on the facts of the case, as I said before.

Mrs Marland: So you do not have a benchmark for how those facts of the case will be measured; it is just the facts of the case.

Hon Ms Gigantes: Both sides will present their views. A rent review officer will make a determination.

Mrs Marland: Are they called rent review officers or rent officers?

Hon Ms Gigantes: They are called rent officers now.

Mrs Marland: Okay, that is what I thought. The rent officer is going to make the determination in the case.

Hon Ms Gigantes: That is correct.

Mrs Marland: If it is something involving the structural integrity of the building, something major, like concrete balconies for example—

Hon Ms Gigantes: I would hope that—

Mrs Marland: I have not finished the question.

Hon Ms Gigantes: You have asked it five times, so I thought I might answer it a second.

Mr Abel: I thought it was six.

Mr Tilson: On a point of order, Mr Chairman: the question was not asked. She was in the process of asking the question and I find it most rude of the minister and Mr Abel to interrupt her while she is asking her question.

The Chair: That is not a point of order. Mrs Marland.

Mrs Marland: If it is something requiring an interpretation of the structural integrity of the building—we are talking about something that could involve thousands and thousands of dollars—to determine whether the structural integrity of that building today is at risk because of neglect is not something the rent officer could determine, unless the minister was willing to tell us what kind of training she is going to give her rent officers. Can you answer that question, Minister?

Hon Ms Gigantes: No, it is not my job to train rent officers. What I know is that the rent officers who will be employed to carry out the measures in this bill are people who have had experience, some of them now with three pieces of legislation that affect rents in this province. They have built up a fair amount of experience. They will build up new experience and make new decisions under this legislation.

While those decisions may not please Mrs Marland, I would like to suggest that in the case where the structural integrity of a building is in question, it might be advisable for both Mrs Marland and Mayor McCallion to think about whether a building inspector is not an appropriate person to call in. If that is the case, then the question becomes for the rent officer, is there a problem here and what has created the problem? Has there been neglect which has created the problem? Certainly a building inspector would be very helpful to that kind of decision. The landlord will have information which he or she will wish to provide to the rent officer, as will the tenants in their experience with both the maintenance and the capital expenditures that have been made in the building. That is how neglect will be determined.

1050

Mrs Marland: You said it is not your job to train the rent officers. I think when I asked the question last week about who was going to train the rent officers, I was told that you were going to.

Hon Ms Gigantes: Me, personally?

Mrs Marland: Do you represent the ministry or not? On whose behalf do you answer these questions?

Hon Ms Gigantes: The question is rather semantic, is it not?

Mr Abel: This whole line of questioning is unbelievable.

Mr Bisson: Quite right.

Hon Ms Gigantes: I am not going to continue answering questions which have no meaning.

Mrs Marland: Who speaks for the ministry, Mr Chairman? Whom do I ask these questions? Obviously when I ask the minister if she is going to train the rent officers, she knows it is her ministry.

Hon Ms Gigantes: Mr Chairman, I will make an offer right here that if Mrs Marland wants to come to a training session for the rent officers so she can see who physically trains them and what they learn, I would be delighted to make sure she has access to the session.

Mrs Marland: That is not the question I am asking. I am asking who is responsible for training the rent officers. I asked what training they were going to have. The answer I am getting this morning from the minister is that they have a fair amount of experience because of their work with previous legislation. She said it is not her job to train them. She knows that the question is, whose responsibility is it that those people are trained? Who is going to set the criteria, Minister, for who those people are and what qualifications they need? Maybe you could answer that, if they are going to make a judgement.

Hon Ms Gigantes: I will just repeat my offer to the member that if she would like to make suggestions or participate in the session, I will make sure she is welcome.

Mrs Marland: No, that is not my job. I am not the Minister of Housing and I do not wish to take part in training the rent officers or setting the criteria for who they are. That is your job. You are the Minister of Housing. I am simply asking you, if somebody wants to be a rent officer and you want that rent officer to enforce your legislation, what kind of qualifications do you want that person to have?

Mr Chairman, could the minister answer the question? A lot swings on her rent officers. When I say a lot, I am talking about the future of whether tenants are going to be able to live in some of these buildings that are under challenge or in question. If the minister thinks it is humorous and all she can do is laugh, which is what she is choosing to do, then obviously the legislation is not significant enough.

Interjection.

The Chair: Point of order, Mr Bisson?

Mr Bisson: It is quite all right; we will let the verbatim continue.

Mrs Marland: The significance of this legislation is that the future accommodation of tenants in this province is going to depend on some of the aspects of this legislation. The future investment in rental accommodation and the existing investment in rental accommodation is going to depend on this legislation. The minister has chosen to have rent officers enforce this legislation. I am simply asking what the criteria are for those rent officers to be selected and trained to enforce the legislation. What makes them equipped to enforce this legislation? What kind of additional training will they have? These were all questions that I asked last week. Since the minister feels, as she said, that it is not her job, then I assume there is somebody in her ministry under her direction. If this bill is under the sponsorship of the minister and part of the bill is to have rent officers, then this minister has to say who they are, what their training will be and what their required attributes have to be before they apply. What makes them eligible to be a rent officer? It is a very simple question.

Hon Ms Gigantes: If the member would like a piece of paper on which is written the job classification and job duties of a rent officer, I would be happy to provide that. If she would like a course outline of what previous rent review officers have been trained on, I would be glad to provide that. We do not have a course outline yet, I would suspect, for the training that will be additional to the mandate of the rent officers under this bill, because the bill has not passed yet, and at the pace this member is proceeding it may never get passed. However, if all these things would ease her mind, we would be glad to give her the paper.

Mrs Marland: After all the months you have had this draft, you do not yet have a course outline, yet you want to rush this bill, have it passed before Christmas, and you are going to turn the job over to rent officers perhaps on January 1. We are talking about a month away and you do not have a course outline. Are you going to train them in the next month over Christmas?

Hon Ms Gigantes: What we have to train them on will very much depend on what happens on clauses like this. If we could get to it, we can decide it. We have said we hoped to be able to proclaim this legislation by April.

Mrs Marland: I would like to see what the requirements are for a rent officer. I would like to see that in writing. I would like to see what training they will be given to make these kinds of judgements. I would like to see the prerequisite for their hiring. I also would like to see it in the next two weeks.

I asked for reports during estimates on shelter subsidy which I still have not received, Minister, which I was promised in estimates. You promised to send me something then which I still have not received. I would appreciate receiving that definition of who it is you will be hiring, what kind of training they will have and what kind of expertise they will have. If that is what you are willing to give me, that is fine.

Hon Ms Gigantes: You have to understand that this will not tell you what will be the course outline for rent review officers under Bill 121, because Bill 121 is not passed.

Mrs Marland: It is not passed, but you know it is going to have a section referring to neglect.

Hon Ms Gigantes: We very much hope so, Mrs Marland.

Mrs Marland: With the balance of government members on this committee, you can have anything you want in this bill. You know that as well as I do, so I do not think we need to play games about that.

Mr Bisson: We do not play games.

Mrs Marland: It is certainly nice to have the government members prattling away. Why do they not ask their own questions, instead of interrupting other people?

The Chair: Directly to the Liberal amendment on subsection 15(3), please.

Mr Tilson: They are here to vote.

Mrs Marland: Yes, I think that is what they are here for. I am supportive of this amendment by the Liberal opposition members of this committee.

Mr Tilson: Before some questions that I would like to ask the minister—or the parliamentary assistant, at least—just to clarify what is now before us, are we on the verbatim amendment put forward by the Liberals, or are we talking about a combination of what was proposed by the government and the Liberals? Mr Chairman, I am just asking you to tell me what specifically is before us now.

The Chair: Specifically before the committee is a Liberal amendment to subsection 15(3).

1100

Mr Tilson: The issues raised by Mrs Marland are most relevant because the act clearly does not define "neglect." There are no regulations that define "neglect." We have been told that unnamed, untrained, undescribed rent officers will in due course tell us what "neglect" is. It is most difficult to create some sort of certainty for the housing industry, whether it be the tenants, the landlords or anyone else involved, as to what neglect is. I would go further than Mrs Marland and ask for information as to what the training requirements of rent officers are. Since it is so tied in with the issue of neglect, I do not see how we can possibly vote on this section until we get from the government either a definition of "neglect" or specifics as to what the qualifications and training of rent officers are. If it is to be the position of the government that the rent officers will decide what neglect is, we need to know whether they are qualified to tell us what neglect is. I think her line of questioning is most relevant, although I honestly believe the information should come to us before we vote on the section.

I am going to ask a series of questions of the minister, getting back to the issue of neglect. The minister has informed us that in due course, through time, through precedent, the rent officers will determine what neglect is. What is that? Does that mean it is the luck of the draw if you are a tenant or a landlord? What sort of guidelines are going to be put forward so the tenants and landlords will know what neglect is? Case law, as you well know, could take a

considerable period of time to develop. There may be all kinds of variations as to what neglect is. I think it is relevant that you tell us exactly what neglect is.

Hon Ms Gigantes: I believe I have responded to that question in this sense: Neglect is what it is determined to be, using a kind of dictionary definition of "neglect" that you and I would use in everyday language, once a rent review officer has informed himself or herself about the facts of the case and made a reasonable and considered judgement, as a rent review officer is both mandated and required to do.

Mr Tilson: You have told us what it does not include. You have told us that it will not include something that is "ongoing" and "deliberate." Did I understand you correctly?

Hon Ms Gigantes: No, you certainly did not. What I pointed out is that the existing legislation defines a decision to be made as a very narrow scope of neglect which is extremely difficult to determine; that is, either "deliberate"—as you know, determining whether somebody did something deliberately makes legal judgements very difficult—or "ongoing," the modifying word "ongoing," persistent. That makes the determination by a rent review officer very difficult, much more difficult.

Mr Tilson: Could you elaborate?

Hon Ms Gigantes: We are providing here what we believe is a much more reasonable scope for determination of neglect.

Mr Tilson: That is what I am trying to determine, because you have said that "ongoing" and "deliberate" is too narrow and that you wish to widen it. Can you tell us what you feel it should be widened to? I need your clarification. If that is too narrow, what is it being widened to?

Hon Ms Gigantes: If I read a piece of legislation that says something has to be deliberate before it is determined to be a matter to be decided, then I know I have to enter into proof of whether somebody purposefully set out to do something or not. However, if what is to be determined is the effect, which is neglect, whether that effect is achieved by a summoning of purpose and slow advance on the object is not relevant at all. What we are looking at is a pattern that really points to something that in common sense, in a practical kind of decision, we could determine is neglect.

If the member would be interested we could draw out piles of correspondence from the ministry where tenants have found that the restrictive operation of a decision around "neglect" that exists under Bill 51, the current legislation, has not provided them with satisfactory protection in terms of their maintenance.

Mr Tilson: How will a rent review officer know what to do? What guidelines will a rent review officer have? You have now removed the definition in Bill 51.

Hon Ms Gigantes: Which never worked. There were no cases.

Mr Tilson: You can say that, but there is now nothing. Someone makes an allegation that there has been neglect. How is the rent officer, or the director—I suppose the director could do it as well—going to determine what neglect is? You can say it will depend on the facts of the case. So a set of facts is given which, from a landlord's and tenant's position, or anyone else's position because you may get into a third party's positions—the rent officer hears these position. How will he or she determine that there has been neglect? You have no guidelines.

Hon Ms Gigantes: By using common sense. We could argue cases. I could cite you hypothetical cases. You could cite 14 hypothetical cases that would presumably cause me to scratch my head and think some more. I think what we are calling upon our rent review officers to do in these circumstances is to make a judgement, based on the information from both sides, that is practical and commonsensical. What is being determined under this section is whether the landlord may go ahead and make an application for extra guideline rent.

Mr Tilson: That is exactly why Mrs Marland was going into the issue of the qualifications and training of rent officers, because we may disagree over what we think is common sense.

Hon Ms Gigantes: The world is like that.

Mr Tilson: You can make all the smart remarks you like.

Hon Ms Gigantes: That is not smart. It is true.

Mr Tilson: There is no question, that causes a great deal of problems, particularly if you have a number of rent officers. Does that mean that for an individual making an application to try to determine that there is neglect, it is a matter of luck what rent officer he or she gets? They will be all over the map.

Hon Ms Gigantes: Any time we delegate authority for decision-making in law, we are opening ourselves to the hazards of particular judgements. That is the way the world works and it is going to continue working that way. We cannot define how people make judgements, given information. We give them access to information. We require that they look at information, that they review information from both sides and make a determination with all the experience they can bring to bear on it.

1110

Mr Tilson: This is a whole new issue for me because I do not know of one piece of legislation anywhere in the democratic world where someone says that you are breaking the law—the bill says you are breaking the law. It tells you exactly how you are breaking the law and that is called statute law. It has been passed by the Legislature. Those laws are then interpreted by judges and that, as you have said, is exactly what case law is.

In your case, you are not telling the judges, namely the rent officers, what law is being broken. You are using the word "neglect" and not defining it. I think you are going to create a great deal of difficulty for those initial decisions. You are delegating the passing of a law to non-elected people of this province who may not have any training in the area, as suggested by Mrs Marland, and she asked quite a serious series of questions. We have no idea who these people are. We have no idea what their training is. We have no idea whether they are qualified to make those

statements. We have no idea whom they are going to seek their advice from. Indeed, are they required to seek advice from someone? They could say, "I think that is neglect," just because. That is not good enough. It is irresponsible to ask us to support this type of law when we do not know what it means.

Let's assume you continue with that and ignore the suggestions made by me and Mrs Marland and you say, "Okay, eventually case law will be determined." What does that mean? Will there be a series?

Hon Ms Gigantes: I did not say "case law."

Mr Tilson: Will you be publishing decisions of cases so landlords and tenants will be able to look up what the definition of "neglect" is?

Hon Ms Gigantes: I did not use the term "case law."

Mr Tilson: I wrote it down. You did.

Hon Ms Gigantes: I probably referred to precedents, which means that something happens in the same field of activity and you expect that over time the determinations will build up a kind of framework in which people can look up the public record, because these are public decisions.

Mr Tilson: That is my question. Are you going to publish reports that landlords and tenants can purchase, or attend some public facility to look up these reported decisions?

Hon Ms Gigantes: Could I ask Ms Parrish to describe to us exactly what is done currently and what will be done under Bill 121.

Ms Parrish: I am not aware of any published system now, but all these decisions are public record decisions and you can certainly obtain copies of them if you want. There is the capacity to publish, if you want.

Mr Tilson: I do not want any of this. You are the one who wants it—not you, Ms Parrish, but the government.

Ms Parrish: The Statutory Powers Procedure Act allows you to have reports and it may very well be that members of the public will say that would be a good service the ministry could provide, and could be considered, along with other forms of client service that might be helpful to people.

Mr Tilson: We now have a statement by the minister that we are going to find out what "neglect" means through time. If that is the position you are going to take, it will take years to determine what the word "neglect" means. You are quite right, there are many different cases, many different varieties of situations. It will take years to define what "neglect" means, as well as other definitions. If you are not going to put it forward in the regulations—it appears you are not even going to put it forward in the regulations—it is going to be eeny, meany, miney, mo as far as the rent officers are concerned. Therefore, when you say that the issue is precedent, I think it is a legitimate question, because landlords and tenants are going to want to know what that and other words mean. If you say it is public knowledge, how can they find that out? How can they find out all the decisions made with respect to the word "neglect"? How will they find that out? That is a question to either Ms Parrish or the minister.

Hon Ms Gigantes: The rent review offices are open to provide information for anybody who may require it. I am sure all staff at the rent review office would be most pleased to try and give an appreciation of decisions that are being made to anybody who would like to know.

Mr Tilson: Will all the decisions involving neglect be indexed and kept in a record somewhere so that—

Hon Ms Gigantes: No, it is certainly not my intent to order that.

Mr Tilson: If you are relying on the issue of precedent, how will the members of the public know what that precedent is if you are not going to do that?

Hon Ms Gigantes: I am sure we will find ways without running a complete library system, indexing, cataloguing and the whole thing.

Mr Tilson: That is what you are proposing. You are proposing a library system.

Hon Ms Gigantes: No, I am not.

Mr Tilson: How in the world am I going to find out what the word "neglect" means if you are not going to publish these decisions?

Hon Ms Gigantes: There is a point at which trying to answer Mr Tilson's questions reaches diminishing returns.

Mr Tilson: I am sorry; I did not hear your answer.

Hon Ms Gigantes: I said there is a point at which attempting to answer your questions reaches diminishing returns.

Mr Tilson: All right; if you do not want to talk about that, let's talk about something else. You have already used the words "structural integrity," tying that into what "neglect" means. We have heard throughout these hearings, and I appreciate you have not had—

The Chair: Just to remind you, we are dealing with the Liberal amendment to subsection 15(3).

Mr Tilson: The whole issue of neglect is tied in with all of this.

The Chair: I would also remind you that your party has an amendment to this section.

Mr Tilson: Yes. We will be submitting that in due course.

The minister has talked about the issue of structural integrity and that it has an effect on the subject of neglect. Let's just talk about specifics. We have had many delegations come to us around this province that have talked to us in particular about the housing stock that is 20 years or more in age, which is 75% of the housing stock of this province. We have heard that there are many situations—whether it is wiring, plumbing or concrete work—that are not discovered, that simply cannot be discovered until there is a problem on any of those examples. Dealing with those specific areas, problems that cannot be discovered—it is physically literally impossible to discover those areas until a problem occurs—is that neglect under your bill?

Hon Ms Gigantes: That would be determined by the facts of the case.

Mr Tilson: I am going to create a factual situation for you.

Hon Ms Gigantes: I am not willing to engage in those.

Mr Marchese: She was asking for you to continue, I think.

Mr Tilson: Let's take a building where the plumbing, which is behind plaster or behind drywall, has been there for 20 years or more and a problem occurs. Is that neglect?

Hon Ms Gigantes: I do not think it advances our understanding for hypothetical questions to be raised and for the member and I to sit and discuss hypothetical situations which might arise. First of all, we are making up these situations, and how they are framed then becomes the matter of the debate rather than what the question purports to be about, which is the definition of "neglect." It is clear to the member that the government does not intend to provide a definition of "neglect." All his vain attempts to try to create cases which do not exist in order to make me—I am not a rent officer—make a determination of neglect just do not advance civility at all and are not going to answer his problem, which is that he does not wish neglect to be part of the consideration by the rent review officer when an application by a landlord is made for a rent increase over guideline.

1120

Mr Tilson: You can say that all my remarks are in vain and I find that discouraging. Mrs Marland and I are talking about an area where we do not understand what the government's position is. We are asking you to change it, and hopefully you would at least give us the courtesy of listening rather than saying it is all in vain.

You have made a comment that the definition put forward under Bill 51 was unsatisfactory, that it was too narrow and you were going to widen it. You will not give a definition of "neglect." You say that will be determined. The reason I am creating a hypothetical situation is just because I do not understand how you are widening that definition. I do not understand what it is being widened to. You say it is being widened. I do not know what that means. Does that mean simply that someone, a tenant, could come forward and say, "The landlord isn't doing something; therefore that's neglect"? Are you telling me the rent officer has the discretion simply to accept a statement like that and say that is neglect? Is that what you are telling us?

Hon Ms Gigantes: I told you exactly the opposite. I said that the rent review officer has both the mandate and the responsibility to receive information from tenants and landlords and make a determination. That is exactly the opposite of what you have just suggested I said.

Mr Tilson: I am sorry. If I am wrong, please correct me, but you have told us that the definition of "neglect" is going to be completely discretionary on the rent officer. That is what you have told us.

Hon Ms Gigantes: I said the rent officer will make the determination.

Mr Tilson: That is called complete discretion. That is what that is.

Hon Ms Gigantes: No, the rent officer has the mandate and the responsibility to talk to both sides in such a case.

Mr Tilson: Based on what facts, what determinations, what criteria?

Hon Ms Gigantes: Based on the facts of the case.

Mr Tilson: But what are the criteria, having heard the facts, that will determine neglect?

Hon Ms Gigantes: That will depend on the case.

Mr Tilson: Again, they listen to the facts. What are the criteria for those initial cases?

Hon Ms Gigantes: I suggested, if you had been listening—

Mr Tilson: I have been listening.

Hon Ms Gigantes: —that a practical kind of commonsense judgement is to be used.

Mr Tilson: How will they determine that? How will they determine the practical common sense?

Hon Ms Gigantes: They will have to make a judgement, as indeed any number of hundreds of thousands of delegated decision-makers do, not just on behalf of government operations but on behalf of business operations, day in, day out. In dealing with activity in human society, we do not require everybody who makes a decision through delegated authority, either in public service or in private service, to be hidebound by 1,400 clauses determining the scope of judgement.

What we do know is that the past legislation, the legislation under which we are still operating, has provided such a narrow scope of decision-making by rent review officers that it has been totally ineffective. We wish to broaden the practical area of decision-making of the rent officers under Bill 121 so that they have the authority, delegated by this Legislature, to make a commonsense and practical determination of whether a landlord should be allowed to proceed with an application for a rent increase that will be above guideline. If the rent officer determines that there is neglect which has caused this application, then the application shall not proceed. That is what was proposed.

Mr Tilson: I suggest that what you are saying is similar to suggesting in the Highway Traffic Act that you are speeding and it is up to the police officer to determine whether you are speeding. Under the Highway Traffic Act, there are sections that say what speeding is in specific areas. It is quite specific as to what speeding is. Making that comparison, you are saying: "We are not going to say how many kilometres per hour establishes what speeding is. We are going to give that simply to the discretion of the individual police officer." I would suggest you take a long, hard look at this, because what you are doing will create absolute chaos. As Mrs Marland has indicated, we are talking thousands and millions of dollars where landlords will have no idea what is neglect and what is not neglect.

Let me just talk about another area which again was raised by Mrs Marland, because it certainly concerns people in my riding, which is a semi-rural, semi-urban type of riding. We do not have rent officers. We have bylaw enforcement officers. That is all we have.

Hon Ms Gigantes: I am sorry; you do not have what?

Mr Tilson: Rent officers.

Hon Ms Gigantes: You do not have rent officers.

Mr Tilson: I guess we are getting down to the question of, who is going to enforce all this?

Hon Ms Gigantes: There are no rent officers yet. As Ms Marland pointed out to me, I made a mistake in calling them rent review officers. We only have rent review officers at the moment.

Mr Tilson: I am quite aware of that. I am getting to the question of residential units throughout this province. How many rent officers are you going to have in the province to enforce this type of legislation?

Hon Ms Gigantes: Can you make an estimate?

Ms Parrish: I think the entire staffing of the current rent review process, including the board, is somewhere around 515 people. The proportion of people who are administrative officers who make decisions or are members of the tribunal that makes decisions, are probably about 100 of them in total, somewhere in that neighbourhood.

Mr Tilson: When Bill 121 is proclaimed—I hope it is never proclaimed, but it will be because the government appears to have more votes than the opposition—how many rent officers do you anticipate will be available to administer this type of situation?

Hon Ms Gigantes: We do not have a fixed number on that yet. There will be a period in which unfortunately we will have to deal with a lot of cases under the existing rent review legislation, and we will therefore require the services of people who will have to carry out the work attached to Bill 51, the existing legislation. We expect that period to continue anywhere up to 20 months, I guess.

Mrs Marland: Twenty months?

Hon Ms Gigantes: Yes, 20 months, right. Yes, the legacy of Bill 51 seems never-ending. That is a result of many of the sections of Bill 51 which have created a large measure of contention and great access to drawn-out legal procedures.

Mr Tilson: I finally agree with you on something, Minister.

Hon Ms Gigantes: We will have to administer Bill 51 cases for quite a while to come. I wish it were not so. In the meantime, to try and answer your question, we will have to build up personnel to begin work on Bill 121. The exact number of people who will be associated with that effort will in some cases be decided by the decisions, such as this one and others in the bill, which will make the workload more or less heavy.

Mr Tilson: That is the point I am getting at. Because you are not going to define what "neglect" is, and because you are going to be relying strictly on precedents, just in my municipality—my riding has very small municipalities. The town of Orangeville, the town of Caledon, the town of Shelburne and the town of Bolton all have residential units. I am not counting even the individual units of houses. I am just talking about apartment buildings as such, and that is an example of what occurs across this province. If we get into the types of situations you are talking about, even for my riding, how many rent officers would be required to administer this bill in a municipality in a riding as small as mine, as far as residential accommodation is concerned?

Hon Ms Gigantes: It is not possible for me to determine how many will be required, but if I could answer in a general sense, I would suspect very few under Bill 121. We expect Bill 121 is going to be a piece of legislation which, once in operation, is going to very quickly lead to a much less complex method of administration than the existing legislation. That is one of the beauties we wish to share with members of this committee.

1130

The Chair: Mr Tilson, I have allowed a lot of latitude in the questioning here, and I understand how important this issue is.

Mr Tilson: This is one of the most important issues of this bill.

The Chair: I fully understand that. All I am suggesting is that I have looked at the next amendment that is to be put forward by your party and some of this discussion may be more appropriate to that section.

Mr Tilson: I would like to ask one more question and then allow other members of the committee to participate on this amendment.

I am concerned with respect to the lack of definition of "neglect," about the fact that it is now going to be carried on by an undetermined amount of rent officers. You say it is going to work much smoother, but the rent officers do not know at this stage—I know the rent officers have to be appointed, but when they are appointed—and they have no guidelines, unless they all have little meetings and decide among themselves what the definition is going to be. It is going to take a period of time. It is going to take a large number of rent officers.

Dealing specifically with this area, have you had any form of feasibility study to determine whether this will work, because this is a major move away from what Bill 51 has suggested? Have you had any feasibility study to determine whether it will work, and anticipating how many rent officers will be required?

Hon Ms Gigantes: Yes, indeed we have. We have had discussions with the people who are providing the service of rent review office under Bill 51, and we have discussed with them what the government proposals in this legislation would mean. We have discussed with them their assessment of how these measures will be interpreted on the ground. What we have been told is that once we get past the period where we are dealing with Bill 51 hangovers, if I can call them that, we can expect we are going to have a more simple and less work-intensive piece of legislation. That is my belief.

We expect the number of inquiries about the new legislation in the short run will increase the workload for the ministry, but that is as it should be. We feel it is very important that as many people as possible in Ontario come to understand the new legislation. We will have the workload left over from Bill 51, so in the short run there will be

an increased workload associated with rent regulation. However, in the longer run, we think this bill is going to be clearer and better understood by all concerned.

In spite of your concerns about potential ambiguity in "neglect," I do not believe that is going to be a problem. We expect in the longer run it will lead to faster determinations of cases and a lower number of people employed in effecting rent regulation. Am I correct? Tell me I am correct.

Ms Parrish: The minister is correct, but in the long term. There is a transition period where you are running two statutes.

Mr Tilson: Could you make a copy of your feasibility study available for members of this committee for the next meeting?

Hon Ms Gigantes: When I say we have had a feasibility study, what we have done is consulted in a very in-depth way with many of the people who have the experience in the field—both under the previous Conservative legislation and then under the subsequent and now operative Bill 51—about what would be involved, what the likelihood of applications and questioning under certain sections proposed would be, and therefore, what the workload would be.

I do not know that anybody has actually written up a long report on that, but it was certainly something that was taken into consideration, both in the framing of the bill and in the subsequent proposal of amendments. When we received requests for amendments and we considered amendments during the summer committee sessions, we discussed with personnel in the field what the workload implications would be and what they could predict from their experience about increased demand for which kinds of services: phone calls, information, requests for determinations of this or that matter. It was on that basis I indicated to the member we have made a very serious attempt to understand the feasibility.

Mr Tilson: But there is no formal feasibility study and no written report that you know of?

Hon Ms Gigantes: I do not know of a written report. There are some written materials.

Mr Tilson: Could we have that for the next meeting?

Hon Ms Gigantes: I do not know if it will be available for the next meeting. We will do it as quickly as we can.

The Chair: The next meeting is this afternoon.

Mr Tilson: I thought it was one big, continuous meeting. Could you have it available for us next week?

Hon Ms Gigantes: We will do our best.

Mr Winninger: It is indeed unfortunate that I could not attend the earlier sessions of this committee for clause-by-clause. Unfortunately I was travelling with another committee, and Mrs O'Neill can testify to that. However, I am thankful to the clerk for providing me with transcripts of the earlier sessions, which I read with avid interest, although also with dissatisfaction at the slow pace this clause-by-clause review seems to be taking.

I would like to address the Liberal amendment to subsection 15(3). Having had to advocate in the courts and use these statutes has been a very beneficial background. We often find that words like "neglect" are not defined, simply because a body of case law has been built up. If a judge is called upon to adjudicate a landlord-tenant matter, typically he refers back to the precedents. It is the hallmark of the English common-law system that you look to precedent. If you look at some of the common textbooks on landlord and tenant law—Lamont springs to mind; there are many others—those cases are listed in a convenient fashion. You look up the wording of the legislative section you are dealing with and the concept is defined in the body of the case law.

The same applies when we have rent review officers adjudicating cases and rent review services. You may recall, under section 74 of the Residential Rent Regulation Act, there was a section that said rent increases can be reduced if there has been a decline in standards of maintenance or services. The act did not define exactly what a decline in standards of maintenance or services was. It was left to the rent review officer or a member of the Rent Review Hearings Board to decide, if it went there on appeal. They would look to other decisions of rent review officers for guidance. Often they would invoke decisions made by judges within the court system as to what might constitute a decline in standard of services or maintenance.

We also have another example in section 96 of the Landlord and Tenant Act, which members will know enabled a tenant to apply to the court to have a repair done when the premises was not maintained in a "good state of repair." Section 96 of the Landlord and Tenant Act was very concise and succinct. It did not define "good state of repair," because there was a body of case law that judges could turn to in deciding whether, based on the facts and the evidence, there was a failure to maintain premises in a good state of repair.

I would respectfully submit it is not advisable to bind the hands of our rent review officers or the hands of those who have either a quasi-judicial or judicial function, because they are the people who are hearing the evidence from both sides. In a fair, level playing field, those sides can be heard in a fair and just manner. For that reason, we do not bind the hands of the rent review officers and we do not bind the hands of our judges. We give them the flexibility and the discretion to make a fair, just and equitable decision under the circumstances.

I realize time is of the essence here. Things have moved slowly enough, so I am going to move right along now to a subamendment, if I can call it that, which my colleague Mr Marchese hoped to introduce. He is not here at the moment, so I will state the amendment. I think it is a fair amalgam of the government—

1140

The Chair: I do not think we can entertain that particular amendment at this time.

Hon Ms Gigantes: But this would be a subamendment, would it not?

Mr Winninger: We are talking about a subamendment here, an amendment to the Liberal amendment.

Hon Ms Gigantes: It is all connected, as far as I can see. One flows from the other.

The Chair: All right. We have come to a determination that you are in order, Mr Winninger.

Mr Winninger: Thank you for that consensus. I think this represents a fair amalgam of the Liberal motion and the government motion with respect to subsection 15(3), as you will see.

I move that subsection 15(3) of the bill, as reprinted to show the amendments proposed by the minister, be struck out and the following substituted:

"(3) A capital expenditure is not eligible if,

"(a) it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it; or

"(b) a system or thing that is replaced does not require replacement."

That is the end of the subamendment, if I can call it that. Not only would it preserve the word "neglect" and allow the adjudicators to interpret "neglect" based on the facts, the circumstances and the evidence, but also it would go on and specify in clause 3(b) proposed in the resolution that where a landlord replaces a system or thing that really does not need to be replaced, that would also constitute an ineligible capital expenditure. We have the two circumstances: one is neglect, the other is unnecessary capital expenditure. It meets the concerns of my Liberal friends and also the concern of the government that we have the best possible wording in this section.

The Chair: I have some good news and some bad news for you, Mr Winninger. The good news is that this amendment can be placed on the floor. The bad news is that I was right the first time; it cannot be done now because we are actually amending subsection 15(3) and not the Liberal amendment. We will continue with discussion on subsection 15(3). You may place that amendment following the Conservative amendment.

Mrs Marland: Can I ask a question on process?

The Chair: My advice is that we deal with Mr Winninger's amendment after dealing with the Liberal amendment.

Ms Poole: Could I speak first, before Mrs Marland? I am willing to withdraw our amendment to facilitate.

The Chair: Unfortunately, you cannot withdraw the amendment because you did not place the amendment.

Ms Poole: I wrote it.

Mr Winninger: I have not lost the floor, have I? I did not think I had lost the floor.

Mrs Marland: David, as far I concerned, you have not lost the floor. I am just trying to ask a question on process here. Do we have a copy of this subamendment?

The Chair: Momentarily.

Mrs Marland: It is impossible for me to either support or disagree with the Chair until I see where the amendment fits in.

The Chair: I am looking for all the help I can get here, Mrs Marland.

Mr Winninger: May I continue?

The Chair: Just on the process: we are dealing right now with subsection 15(3) and unless you have some problem with where we are right now—

Mr Winninger: Yes, I do have a problem with it.

The Chair: Okay. I want to hear it if it is about which amendment we should be dealing with right this moment.

Mr Winninger: I can go back since you have indicated that we cannot deal with my proposed subamendment now. I am quite pleased to return to our discussion of the Liberal amendment, which I find unsatisfactory. I will just briefly conclude as to why because I know my colleague Mr Bisson also has a few words.

The Chair: So does Mrs Harrington before Mr Bisson.

Mr Winninger: Oh, I am sorry; Mrs Harrington as well.

I would suggest that the Liberal amendment is unsatisfactory. I know the minister has alluded to this earlier. It would delete completely the reference to repairs that have become necessary as a result of ongoing neglect. We all know of situations where there could be a leaky roof, for example, or an unsafe parking lot. Instead of carrying out the necessary repairs that should have been carried out by the landlord, the landlord waits and waits until the problem gets a lot worse and a lot more costly to remedy. Passing on these kinds of unconscionable cost-of-capital repairs to the tenants at that time would be unfair.

You could say that if the landlord ignores or neglects his or her or its responsibility to carry out repairs in a timely fashion, at some point we have to close the door and say to him: "You could have moved on this earlier but you neglected the situation. These aren't the kinds of repairs that justify an increase above the guideline in the rent." For that reason we need to maintain, as the minister has said again and again—The critics of the Liberal and Conservative caucuses should know better because they display a great deal of knowledge of the way this act operates. I cannot understand why they do not save their ammunition for the more important issues. I read that in the transcript. Sometimes I cannot believe that they quarrel over the insignificant issues that they do.

I am sure they are well aware of the case law on the concept of necessary repairs. I think they should also know that it is an important principle and that we keep it in there. It is a concept quite distinct from the concept of a system or thing that is replaced that does not require replacement. We have seen that under the RRRA. We have seen a lot of cases where the landlord will put in renovations to increase the value of his property, for example, install renovations and marble lobbies. They are certainly notorious, but we also have the kitchen case where new double sinks were put in, where kitchens were renovated that did not have to be just so that the landlord could perhaps attempt to evict the tenants for substantial renovations and double the rents. We have all seen cases like that.

These are the kinds of unnecessary replacements that tenants should not have to bear the extra costs of, above the guideline. There may be systems or things that are replaced but do not require replacement. We acknowledge that. I am quite indebted to the Liberal critic, I think it was,

for bringing forward this subamendment, but I cannot agree that we have to delete the unnecessary capital expenditures due to neglect. That is all I have to say on that.

1150

Ms Harrington: I want to let you know briefly how important this section is. I believe all of us here in this room understand that, and that is why the discussion has taken a long time. It is important.

First, the bill as a whole wants landlords to maintain their buildings and we want tenants to be able to live in those buildings. We have the capital expenditure for necessary repairs passed through to tenants by the landlords. We feel that is an important part of this bill because we want the buildings kept up. On the other hand, we want safeguards for tenants in two areas: first, the rent stability, and second, maintenance.

All of us understand that maintenance of buildings is very important. Although we want landlords to be able to pass through the necessary capital expenditures that we have defined, the landlords have to be assured that all expenditures cannot be passed through if in fact the landlord does not keep up that building. The upkeep of the building is what is so important. The onus through this piece of legislation is on the landlord, to make sure that the building is kept up. This is what tenants need. It is what tenants want. Whether it is a Liberal government or a Conservative government or our government, we all understand this. We have been out there talking to tenants. You know what the problems are. There have been problems of maintenance and neglect in many buildings and this is why this clause is in there. What it says directly is:

"A capital expenditure is not eligible if it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it."

We understand from the discussion of the past hour and a half that this is a difficult clause. I just want to say that under the RRRA, which has been in effect for the last five or six years, there was the same type of definition, only it said "ongoing and deliberate neglect." As the minister has pointed out, this was very difficult to define to get any kind of redress for tenants who were in this situation of neglect.

What we are saying is that we have taken out those problems. We are going to give it a try with a clearer, more workable—and the word is "commonsense"—definition of what neglect is.

Mr Tilson: What is it?

Ms Harrington: Mr Tilson brought up about half an hour ago the problem of wiring behind a wall. Surely any home owner knows whether his home has been neglected or whether the repairs are in a reasonable type of upkeep. It is common sense. The same thing would apply to a landlord and tenant relationship.

What I am saying is that under the RRRA we have struggled with a very difficult definition, which was "ongoing and deliberate neglect." We are saying this is going to be a better way of dealing with it. We are absolutely committed that tenants have to know the onus is on the landlord to keep up the buildings before any capital expenditures can be passed through to them. I believe this is a very important part and this is why we have to have it in there.

Mr Bisson: Let's see if we can recap a little bit where we are at here. I will just read the amendment so that we know what we are getting at. The objection is that what is proposed is that capital expenditures, as written in the amendment, are not eligible "if it became necessary as a result of neglect in maintaining the residential complex or a rental unit." What is at question is the word "neglect."

The opposition parties are saying that we need to somehow define the word "neglect." I guess the premise is that if you define it then the rental officers would be able to go by some sort of guideline and say what constituted neglect. So I am the rental officer. I go into the building. I take a look and I say, "Where does it fit inside these criteria?" If it fits in the criteria for "neglect," I can then say that this rental increase is not applicable under this particular amendment. I think all of us understand—

Ms Poole: On a point of order, Mr Chairman: Particularly because these hearings are being publicized, it is not wise to let any inaccuracies be aired.

Mr Bisson: Inaccuracies? I have been listening to them all morning.

The Chair: That is not a point of order, Ms Poole.

Ms Poole: It is, in that rent review officers do not go to buildings to look at them, period.

Mr Bisson: Mr Chair, I draw the line at this point. I have been listening to inaccuracies all morning.

The Chair: It is not a point of order, Ms Poole. It is maybe a valuable piece of information, but not a point of order.

Mr Bisson: I am just going to recap. I will try this one more time. What is at question is the word "neglect." What is at question, what the opposition parties are saying, both the Liberals and the Tories, is that we need to define the word "neglect," because if we do not define it, how can the rental officer do his or her job in defining what constitutes neglect within the maintenance of a building? Correct?

Landlords and tenants are asking, "What do we do in the event we have to upkeep our buildings and put them into good shape?" That is the problem, in my mind, and I think in the minds of a lot of people, because I have been talking to people in my riding about this particular issue, where as in any other riding in Ontario we have rental stock where we have landlords and tenants.

When you come to the question of neglect, if you define it in the bill you are really handcuffing the rental officer. What you are doing at the end of the day is that you are taking away any ability we have as tenants, or even as landlords in some cases, to be able to do anything about the situation. With any legislation, my experience has been that once we start defining things per se, as to what exactly that means with regard to neglect, we do not give any flexibility to the rental officer and we will end up in a very bureaucratic system.

I would speculate that we will end up in a situation where nothing will be able to be done to determine what

neglect is because it will be defined as such, so all these expenditures, even though due to neglect, would be allowed because they do not fit the criteria, and after that the rental increases would be passed on to the consumer, on to the tenant. Is that fair? If I have to pay the cost in my rent because my landlord did not do the property maintenance on his or her building, is that fair? I say no.

Mr Winninger: I agree with you.

Mr Bisson: Thank you very much. My colleague even agrees with me. I love that. That is the question. They are saying, "We don't have a problem in dealing with this clause altogether, but we want to define the word 'neglect.'"

All it comes down to and all I am saying is this: To define "neglect" you are handcuffing the hands of the rental officer and any flexibility he or she has, because there is no way you can sit down and define, in every situation, what constitutes neglect in the maintenance of a building. I would really challenge anybody to be able to write that down. If you can come down and prove to me beyond a shadow of a doubt that you can cover every situation and write it down, I would challenge you, because it would be very difficult, because each situation is different.

If you tried to define what "neglect" is, there is no way you are going to be able to write it in such a way that at the end of the day you will be able to do justice to the tenants and also, I may say, to the landlords of this province, when it comes to constituting what neglect is. You have to give that flexibility to the rental officer, and that is what we are trying to strive for. When I listen to the people in my riding, they are saying, "God, don't tie us down in a bureaucratic system, because we want to have some flexibility."

Where there is a little bit of a grey area, or there is a situation that calls for listening to both sides to determine what the situation is, based on the facts, you have to give that power to the rental officer. At the end of the day, the rental officer will sit down with the tenants who raised the complaint, or with the landlord who raised the complaint, and say, "What's the situation?" A rental officer will then go in and investigate, and will make sure to take a look at the building in question, and if need be call in the building inspector from that municipality to take a look at what the situation is, and then sit down and make a determination based on all the facts. If we try to determine on paper a definition of what "neglect" is, we take that ability away.

If we really try to define it, if we really try to put it down on paper, I think we are tying the hands of the rental officers. It will be extremely difficult for them to do their jobs. What will happen at the end of the day is that most expenditures having to do with neglect will go through. Is that fair to the tenants of this province? I say no. If that is what you are advocating, I have to disagree, and I will vote against your amendment. I will say that publicly.

I know you are about to do your little hammer trick, Mr Chair. I do not if you were going to pitch it at me or put it on there. I take it that it is 12 o'clock and that we would adjourn until after routine proceedings, and I would put that forward.

The Chair: I think that is a very good suggestion.

Ms Poole: I would suggest we go on until we hear the bells for the vote. The House is still in progress, and some of us have been waiting for one hour and 15 minutes to speak.

Mr Bisson: Well, I will take the floor back. I was just trying to be nice to people.

The Chair: I think Mr Bisson will have the floor when we reconvene at 3:30 this afternoon.

The committee recessed at 1201.

AFTERNOON SITTING

The committee resumed at 1537.

Mr Bisson: Mr Chair, I ask the unanimous consent of the committee to have the minister, Evelyn Gigantes, replace me or sub for me in the committee this afternoon as I have to get back to my riding for fairly pressing matters in regard to a situation developing in my riding. Can I have unanimous consent?

The Chair: Is there unanimous consent?

Agreed to.

Mr Bisson: I will pass on to the clerk of the committee a substitution slip.

Section 15:

The Chair: We will now pick up on the discussion we were having this morning regarding subsection 15(3) and a Liberal amendment to that motion. Mr Bisson had the floor when we adjourned.

Mr Bisson: If we recap what was happening this morning, in the Liberal amendment there was some discussion on the part of both opposition parties in order to have the government define what the word "neglect" meant in regard to subsection 15(3). Let me read what is proposed by the government: "A capital expenditure is not eligible if it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it."

What we are saying there is that if for some reason the landlord decides he is not going to maintain his building and lets the situation go on for too long, we are not going to allow that to be passed on to the tenants. The argument on the part of the opposition is that we should take the word "neglect" and try to define it in the context of this particular act. The difficulty in doing that, and what I was pointing out this morning, is that if we try to define it, what we will be doing in effect is handcuffing the ability of the rental officers to be able to do their jobs, because what we do not want, I think, is a system that is very rigid and not flexible enough to recognize circumstances that would never be determined if you tried to put it down on paper.

What I was saying this morning as a member of this committee and as a member of this Legislature was that I will not vote in favour of what the opposition is talking about. I think we cannot define "neglect." If we define it, we will really get into a situation where we will not have the flexibility necessary to allow the bill to work in the context in which it has been put together.

Ms Poole: I am glad that at the end of his remarks this morning Mr Bisson clarified what the opposition was saying, because for a while I felt there was not a member of the NDP, including the minister, who was accurately portraying the opposition's point of view. It is not a problem with the fact that you are saying that if there is neglect, the landlord should have a rent penalty. The problem is, as Mr Bisson outlined, that if neglect is not defined, is it going to tie the hands of the rent review administrator, the rent review officer, so that he cannot make an adequate decision, because he is relying on so-called common sense?

If common sense could be legislated, that would be fine. If people could be trained in common sense, that would be fine. If the people of this province, the tenants and landlords, had confidence that the rent review officers had, first, adequate training and, second, common sense, Mr Bisson's comments would make a lot of sense, so to speak.

Mr Bisson: I thought they did.

Ms Poole: Well, they did anyway, but there is a very problematic part to it. Instead of tying the hands by defining it, it would indeed assist the rent review officer to make a valid and valuable decision. I have worked with rent review administrators. Some of them are extremely good, and some of them, to be kind, are not extremely good. There is a great variance. It does not have anything to do with training. Some of it has to do with native intelligence, some has to do with common sense, some has to do with ability to interpret. Say the minister follows through and has a very rigorous training process so that these rent review officers are extremely well trained. That still does not mean these people have common sense.

Tenants and landlords spend hundreds and hundreds of hours preparing a case for rent review. It is very important. If you collectively added up all the time they spend on it, it would come to that, particularly as cases are complicated and there are more things being requested. I put it to you that you are expecting these people to put hundreds of hours of work into this case without knowing whether this rent review officer might happen to be one who liked tenants a lot and always happened to believe the tenant's side and always happened to rule in that particular way or a rent review officer who was not so sympathetic and always seemed to see it from the landlord's point of view.

As much as you say you try to eliminate bias, rent review officers are people. They are influenced by their background, by the type of training they have had, by the type of education they have had, by the people they associate with, by their life experience. Some of these rent review officers would have worked with tenants a great deal in their past life before they became rent review officers. They obviously see things from a certain perspective. The same applies if there are rent review officers who had extensive experience in building management. They have a perspective.

Ms Harrington: But they are professional people.

Ms Poole: They are professional, and I am not saying they would deliberately try to be biased, but I can point out examples of rent review administrators and appeals members under the current system who have vastly different perspectives. They all treat it very professionally, but you cannot legislate common sense. I would feel far more comfortable if, as espoused this morning—at great length, I might add—by the member for Dufferin-Peel, there were basic criteria a rent review officer was to look at. They do not have to be rigid; they can provide for some flexibility. But those guidelines and criteria should be in place. I am

appalled at the idea of people spending all their time and energy preparing a rent review case and then being at the whim of the rent review officer, tenants and landlords both. Guys, this is something—sorry, guys and gals—

Mr Bisson: That was a sexist comment.

Ms Poole: It is not any more; I said, "guys and gals." Ladies and gentlemen of the jury, may I say to you that this is one issue that both tenants and landlords have reached consensus on. I do not agree with Mr Winninger, who called it an insignificant issue. His colleague, Ms Harrington, minutes afterwards said it was a very important issue. I agree with her.

Mr Winninger: On a point of personal privilege, Mr Chair, I do not recall using the word "insignificant."

Ms Poole: I copied it down.

Mr Winninger: I suggested there were other issues that might be more compelling.

The Chair: It is not a point of privilege.

Mr Winninger: It is a point of personal privilege if I have been misquoted.

Mrs Marland: I heard "insignificant."

Mr Mammoliti: Then that's it.

Ms Poole: We have my rather insignificant point that I copied it down as you said it. We have Mrs Marland's significant point. She's the definitive—

Mr Winninger: If I said it, I must have meant it.

Ms Poole: At any rate, I agree with Ms Harrington that it is an important issue. It is not fair to tell people that they are to take a case to rent review and not to give them the criteria under which a decision will be made. I am more than willing to concede to Mr Bisson that flexibility has to be built in, but that does not mean there should not be basic criteria.

Mr Bisson also brought forward the viewpoint that there should not be criteria, that they would tie rent review officers' hands. I submit to him then, let's take out the criteria for capital expenditures and what is eligible and what is not eligible. Why not leave flexibility there? The reason we have criteria is not to tie people's hands but to ensure that tenants and landlords are given a fair and impartial opportunity to bring their case forward, so that if they bring it to rent review officer A, rent review officer B or rent review officer C, they will come up with the same or a very similar decision. Particularly when this government has chosen to severely restrict the right to appeal, it becomes even more important. It becomes vital that criteria be established in the first instance.

I cannot support the section on neglect. I could support it if you were to define it, if you were to provide those criteria. I am glad that Mr Bisson, in his final comments this morning, did give an analysis which recognized it is not that the opposition members are against having neglect as a provision. We have a lot of problem with the fact that it is out there wide open for anybody to interpret however he or she chooses.

The last point I want to make in closing is that this morning the minister referred to the current system as Bill 51. The current system is not Bill 51; the current system is Bill 4. It may seem like a moot point, but for those of us who endured four months of Bill 4, we feel very strongly that we know what the current system is. It is not Bill 51.

Hon Ms Gigantes: Bill 4 is simply an amendment to Bill 51.

Ms Poole: That was my last comment. Bill 4 was called An Act to amend the Residential Rent Regulation Act, 1986. However, it is now the law. Bill 51—legislative counsel can feel quite free to correct me if I am wrong—is now a previous piece of legislation that is no longer in effect and force in this province.

1550

Mrs Marland: Are we speaking to the Liberal motion at this point or to Mr Winninger's motion?

The Chair: The Liberal motion to subsection 15(3).

Mrs Marland: This morning the minister said that this bill, under subsection 15(3), was removing the description of neglect that was in the RRRA. Apparently, in the RRRA it says "ongoing" and "deliberate." The parliamentary assistant, Ms Harrington, said this morning that they were taking that out because it was "unenforceable." I would like to know from the minister how, if it was unenforceable to describe neglect as ongoing and deliberate—

Ms Harrington: She explained that this morning.

Mrs Marland: No. I have not finished my question. How, if it was impossible to enforce when it was ongoing and deliberate, now when you leave the word "neglect" standing alone in subsection 15(3), which obviously was an amendment of the government and is now in the bill in this reprinted form, is that going to be any more enforceable than it was in the RRRA?

Hon Ms Gigantes: Very briefly, and once again I will resist the temptation to try and enter into hypothetical cases, if the law says something is not applicable in the case of neglect, that is one thing to have to determine; but if the law says something is not applicable—in this case an application for an increase in rent above guideline—in the case where neglect is persistent and ongoing—sorry, not persistent. That is an amendment coming from your side.

Mr Marchese: Deliberate.

Hon Ms Gigantes: Deliberate and ongoing. It is much more difficult to determine the degree of deliberation and the degree of ongoingness.

Mr Marchese: Yes, absolutely.

Mrs Marland: I think it is going to be interesting to read this answer back to the minister when we deal with the next section. I accept the answer as being her answer. It is obviously not acceptable to me.

Those are all the questions that I have on the Liberal motion.

Mr Tilson: Mr Bisson seems to feel that having a set of criteria will tie the hands of the rent officers. It seems to be the philosophy of the government that, by removing the ongoing and deliberate type of definition, this is unenforceable. In fact, they are replacing it with nothing. There is no definition as to what is neglect. It would be interesting. Mr Winninger said, "Well, look it up in the dictionary."

Mr Winninger: On a point of personal privilege, Mr Chair, I did not say, "Look it up in the dictionary." I said, "Look at Lamont on residential tenancies for a nice summary of the common law." I did not say, "Look it up in the dictionary."

The Chair: Thank you, Mr Winninger.

Mr Winninger: You look it up in your Funk and Wagnall's.

Mr Tilson: Whether you look it up in Lamont or in Black's Law Dictionary or in any number of dictionaries, it would be interesting if we all, in this room, wrote down on a piece of paper our definition of neglect. My guess is that there would be at least half a dozen to a dozen different definitions. That is the concern I have.

I believe, contrary to what Mr Bisson has suggested, that you could have some set of guidelines. If the ministry wants to provide some discretion to the rent officers, that can be worded now. We have very competent counsel in the government to put forward definitions, and I am certain that some sort of guideline would assist the rent officers in determining what this is.

There could be instant neglect. It is possible that something happens this afternoon and it is not repaired by this evening. There could be long-term neglect, neglect that has been going on for a year or two years. In fact, what is long-term? Is a week long-term? Is a year long-term?

There could be neglect that the landlord does not even know about, and I have given some examples. I guess the trouble is, is the landlord going to be given reasonable opportunity to repair these matters? If the landlord has been advised once, maybe twice, maybe three times, whatever criteria are being suggested, all of that would assist the rent officers in determining what neglect is. But there are no guidelines. The rent officers will not have a clue as to how to determine the issue of neglect. I will say that our caucus will continue to oppose anything that does not define the issue of neglect.

The Chair: Shall the Liberal amendment to subsection 15(3) carry? All those in favour will indicate by saying "aye."

Ms Poole: Could we have a recorded vote, Mr Chair?

The Chair: We certainly can.

The committee divided on Ms Poole's motion, which was negatived on the following vote:

Ayes–3

Marland, Poole, Tilson.

Nays–5

Abel, Gigantes, Harrington, Marchese, Winninger.

The Chair: Mr Marchese moves that subsection 15(3) of the bill, as reprinted to show the amendments proposed by the minister, be struck out and the following substituted:

"(3) A capital expenditure is not eligible if,

"(a) it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it; or

"(b) a system or thing that is replaced does not require replacement."

Mr Marchese: Could we vote on that ad seriatim, Mr Chair, (a) and (b)? I think the members would like that.

Mrs Marland: I did not hear what he said.

Mr Marchese: Ad seriatim? One at a time.

Mrs Marland: I know it means that, but I did not hear what you said.

Mr Marchese: Oh, I see.

The Chair: What is being asked here is that we have a government motion before us amending subsection 15(3) and we will deal with clauses (a) and (b) separately.

Ms Poole: I think we have pretty well exhausted all the discussion on this matter that one would want to have. We have already talked about it for two and a half hours today, plus whatever time you spent last week.

I just wanted to make one point and that is, I appreciate the fact the government has agreed to allow separate votes. Ironically, this now is in the identical form it was before the government made its amendment, so we are voting on something that was originally in the bill in the same form. But I do feel more comfortable with the fact that you very clearly specify that if something does not need to be replaced, then it cannot be considered to be an eligible capital expenditure.

As the minister said this morning, there is a debate as to whether it is necessary to add this or not, but it takes nothing away from the legislation to add it and it might take something away from the legislation to delete it. So I am very pleased that we have reached this accommodation.

1600

Mrs Marland: May I ask Mr Marchese a question?

Mr Marchese: Absolutely.

Mrs Marland: In clause 15(3)(a), "it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it," I have Webster's dictionary here and under neglect it says, "To give little attention or respect to."

I am asking you this question since we heard this morning from the minister that the rent officers are going to be responsible for interpreting neglect, since the act does not interpret neglect for them. "To leave undone or unattended...through carelessness...to pass over without giving due attention." Could you tell me what you think that means in terms of neglect in the legislation, if you are talking about eligibility for capital expenditure, which is what this section refers to? This section is not referring to everyday maintenance. Subsection 15(3) is not referring to operating costs, it is referring only to a capital expenditure.

Mr Marchese: I think the definition is in fact quite good and quite clear. Different dictionaries would probably give different definitions, but I suspect it might be the same. Everything you have mentioned that the dictionary defines, in my view defines perfectly what we mean by neglect. "Little attention to or respect to," is exactly what neglect means, or "anything undone or unattended," or "pass over without due attention," all of the things we mean by neglect, if the member is listening.

Mrs Marland: I am listening.

Mr Marchese: You are? You have an incredible ability to listen with one ear and speak with the other.

Mrs Marland: Yes, I do. I have noticed you speaking with your ear as well.

Mr Marchese: I think the definition of neglect, as you have defined it, fits exactly into (3) quite well.

Mrs Marland: Okay. Could we agree, as members of the committee then, that this definition can go into the act?

Mr Marchese: I would not be prepared to do that, because I think—

Ms Poole: The minister would be very upset with you.

Mr Marchese: I do not think she would be. I do not think it would be useful to define neglect in the way that you are proposing.

Mr Tilson: You said it is a good definition.

Mr Marchese: When we talk about the people who will interpret it, my view is that they will interpret it exactly in that way, but I do not know that it would be useful to have to give all the possible different definitions, as the minister was explaining a number of times over in attempting to answer the same question you are asking me.

Mrs Marland: I have only given you three interpretations of the word "neglect." I am simply saying to this committee, if so much pivots on the word "neglect"—

Mr Marchese: Not really.

Mrs Marland: I am sorry, you cannot shake your head that so much does not pivot. So much pivots that the right of tenants to have a living environment that is well maintained, is a safe structure, is all of the things that they pay rent for, pivots on a rent officer interpreting the word "neglect."

You are the party in this province which claims to protect the rights of tenants, so let's talk about tenants for a moment. Let's talk about the tenant who has the act in his hand and knows he can discuss an item of neglect because it says that in the act. It says that he may have to pay an increase in his rent if a capital expenditure qualifies, as long as it is not neglect. Would you agree that is what this section is saying?

The Chair: Before you respond, Mr Marchese, the minister has indicated to me that she wishes to respond also.

Mr Tilson: She will have to wait her turn.

The Chair: No, she does not.

Mrs Marland: At the moment, Mr Chairman, I am speaking to Mr Marchese, and I asked if that was permitted, through the Chair.

The Chair: The minister has indicated that she would like to respond.

Mrs Marland: Which is fine, and she may follow Mr Marchese, but I asked if I could ask Mr Marchese a question and he said yes. I think Mr Marchese, as a former minister, is just as capable as this minister of answering this question. I feel that as a former minister, Mr Marchese is willing to answer a question. Is it not fair for me to continue?

The Chair: Mrs Marland, you must direct all questions through the Chair.

Mrs Marland: I am.

The Chair: And the responses can come from the government side, whether that is Mr Marchese or the minister or both.

Mr Tilson: On a point of order, Mr Chairman, the motion was made by Mr Marchese and I think therefore Mrs Marland is quite clearly asking for his clarification as to what he means by his motion, and only he can answer that. I think it is quite reasonable for Mrs Marland to direct the question to him. Many of us could make our interpretation as to what he means by his motion. I think she is quite in order for that.

The Chair: Thank you, Mr Tilson. Any member has the ability to ask someone else to answer the question for him for purposes of clarification. I have had no indication Mr Marchese does not want to answer the question. I have just had an indication that the minister would like to participate.

Mrs Marland: Through you, Mr Chairman, I do not mind the minister participating. I do not know why she is interrupting in the middle of my questioning.

Mr Abel: She hasn't said a word.

The Chair: Order.

Mrs Marland: I am questioning the mover of this motion.

The Chair: Ms Poole, on the same point of order.

Ms Poole: On this particular point of order, Mr Chair, I do not think it is good to waste the committee's time by going on and on about this. I mean, we can get into technicalities such as, "Mrs Marland asked Mr Marchese if he would answer a question and he has already answered a question, so she shouldn't have another one," but I think that is just getting down to silly points. Why do we not just get on with it, and also give the minister an opportunity to respond, if Mr Marchese would like it?

Mrs Marland: Was that a point of order?

The Chair: As much as the others. Do you wish a response, Mrs Marland?

Mrs Marland: I would not have asked the question, with respect, Mr Chair, of the mover of the motion. He uses the word "neglect" in his motion. I am asking him if the definition of neglect fits the word "neglect" in his motion. He said, if I recall correctly, that those were three good definitions I gave him.

Mr Marchese: I would like to comment for the final time, because I think it is very circuitous. The point of not including the definition is that if you do that, then the problem becomes, what is "little attention," what is "pass over without due attention"? Then you have a fight over what is due attention, what is little attention, and that is a problem. Rather than doing that, it is best that the review officer makes a determination based on common sense, based on long years of experience in the field and makes—

Mr Tilson: They have not even been appointed yet.

Mr Marchese: —that kind of determination, where the person might say "because of little attention," or whatever it is. But the person makes that determination, as opposed to having to define it and fight over such terms as "deliberate," "ongoing." Is it a year, is it two months, is it 10 years, what is "due" and so on? That is the difficulty. The word "neglect," in my view, is exactly what we need in order for this to be dealt with adequately, and effectively. But I cede now to the minister, if she wants to respond further.

The Chair: Thank you. Mrs Marland?

1610

Mrs Marland: Mr Chairman, is it not interesting that Mr Marchese has just confirmed for me my argument?

Mr Tilson: Congratulations.

Ms Poole: I was going to say the same thing.

Mrs Marland: You see, the thing is, you are not willing to have a definition of "neglect" at all.

Mr Marchese: No.

Mrs Marland: The very things you have just said—

The Chair: Through the Chair, Mrs Marland.

Mrs Marland: Mr Chairman, to describe neglect as to give little attention or respect to, to leave undone or unattended through carelessness, to pass over without giving due attention—on the one hand, the mover of this motion has said those are very good interpretations of the word "neglect."

Mr Marchese: Yes.

Mrs Marland: Now he is saying he cannot put them in because they are too definitive. You cannot say both things. Either they are too definitive and would help make it work or you just do not want to have any definition of neglect because you want something so wide open that it is going to be—

Mr Marchese: That it will fit.

Mrs Marland: Excuse me. Mr Chairman, the member is saying that those definitions on the one hand are very apt. On the other hand he is saying, "Well, they might not cover everything," and yet we want to revert to a word like "neglect" that has tremendous latitude of interpretation.

If you happen to be the person who owns the property, whether it is a duplex that you live in and in order to afford it you rent the other half of the duplex, or whether it is a 600-suite apartment building, whatever the amount of money you have to spend as the owner of that property to remedy something that is qualified as neglect, is a very critical point.

Either they can remedy it as a capital expenditure and be allowed maybe a 1% or 2% or 3% increase in their rent, or they have to fund it totally out of whatever their income is from the other half of that duplex. Since the majority of rental accommodation in this province is in buildings of eight suites or less, we are not talking about the big, wealthy landlords that your socialist party seems to have it in for; we are talking about people who are average Joes who made an investment in a building. If the interpretation of neglect means they either can access an exemption as a capital expenditure or not, that is why the interpretation of neglect is so critical. You are asking us to support this motion where you are saying something is necessary as a result of neglect and you will not even agree with the Webster's dictionary. You are not willing to include an explanation of it. Your argument is very confirming. It is exactly what I thought you might say.

Mr Marchese: What I said is not what you said.

Mrs Marland: Fortunately, it is in Hansard.

Mr Marchese: Absolutely, and I am happy that it is.

Mrs Marland: Fortunately for all of us, what I have been saying all morning about the word "neglect" has just been confirmed by your argument.

The Chair: Minister?

Hon Ms Gigantes: Very briefly, Mr Chair, I think it will help us to look at this clause as a tool of one thing, which is to determine whether capital expenditure will be allowed above the guideline and passed through to tenants.

I should also point out just in passing that it is not true to say that the majority of rental units are in apartment buildings of eight units and less. That is simply not the fact.

What we are looking at here is a question that a rent review officer must decide. Item X has been undertaken as a capital expenditure by a landlord. The question in this clause that the rent review officer must determine is, was the investment in item X brought about as the result of neglect to item X? It is really that simple. It is not a hugely complex matter. It does not have to do with anything but that simple question. To try to affix or suffix or prefix that determination with a whole bunch of other phrases, definitions or otherwise, is simply to complicate and bedevil the whole question.

I think it is relevant to note that in the collective memory of the ministry, under Bill 51, where neglect was something that could be a matter of consideration for the rent review officer only if it were something called ongoing and deliberate neglect, nobody can remember a case that ever had a determination that said there had been ongoing and deliberate neglect, which leads us inevitably and very forcefully to the conclusion that when we try and define neglect—and we will take the same position when Conservatives finally bring forward their motion on this subject—we are inhibiting the usefulness of the consideration of neglect in the protection of tenants.

It is our view that tenants should not have to pay for a capital expenditure if the need for the capital expenditure was created by neglect. That is the question in this clause, and that is all it is. I think we should vote on it.

The Chair: Thank you. I have Ms Poole on the list.

Ms Poole: I really dislike agreeing with Conservatives. I find on this committee I do it far too often and it is very worrisome to me. But again, Mr Chair, I have to agree with Tories, as painful as it is to me.

I think Mrs Marland made the point really well, and Mr Marchese was trying to make an opposite point, but what he did was confirm exactly what Mrs Marland said earlier. When he used the words, "Well, it could be a little,

it could be a lot; it depends on perspective," when he advanced that viewpoint, that is precisely what we are talking about. Is not our goal to have a fair, impartial rent review system where it does not matter which rent review officer you go to, you are going to get the same result? Is that not what you really want? How can you get the same result when you are leaving so much to discretion? It is an important point.

I do not think there is any point belabouring it, other than to tell you that I think the government has not put in a definition of neglect because the government is unable to put in a definition of neglect; therefore it is just opting out. I do not think that is going to benefit anybody. When we start seeing rent review decisions with very similar situations but with varying orders, very dramatic differences, that is when you will admit—or that is when you should admit, but you probably will not admit—that there should have been criteria. To use the minister's own words, "There should have been a tool given to the rent review officers to help them make the right decisions."

Mr Chair, I call for the vote.

The Chair: Ms Poole has called for the vote. Shall government amendment to clause 15(3)(a) carry? Those in favour will say "aye." Opposed?

Motion agreed to.

1620

The Chair: We are now discussing the government amendment to clause 15(3)(b).

Ms Poole: I move that we call the vote.

The Chair: All right.

Mrs Marland: Are we voting on the motion to call the vote? Technically, you should.

The Chair: You are correct. Those in favour of putting the question now? We shall put the question. Shall the government amendment to clause 15(3)(b) carry? Carried.

Shall the government amendment to subsection 15(3) carry in its entirety? Opposed?

Motion agreed to.

The Chair: We now have, I believe, a Conservative amendment to subsection 15(3).

Hon Ms Gigantes: Mr Chair, I think you will rule on this, but I suspect you will find that the Conservative motion would become redundant at this stage.

The Chair: Let me have just a moment to read this. I think the first thing we should do is have Mrs Marland or Mr Tilson formally make the motion.

Mrs Marland: I would be happy to read it in. I move that subsection 15(3) of the bill, as reprinted to show the amendments proposed by the minister, be struck out and the following substituted:

"15(3) All or part of a capital expenditure is not eligible to the extent that:

"(a) It became necessary solely as a result of persistent neglect in reasonably maintaining the residential complex or a rental unit in it; or

"(b) A system or thing that is replaced does not require replacement having due regard to its age, useful life, cost of repair, cost of replacement or its functional obsolescence."

The Chair: According to the standing orders, section 49, "No motion, or amendment, the subject matter of which has been decided upon, can be again proposed during the same session." I suggest to you that it has been voted on and decided by the committee, so I rule this motion out of order.

Mr Tilson: If we could speak to that—

The Chair: It is not debatable. We are moving on then to subsection 15(4).

Mrs Marland: On a point of order, Mr Chairman, the motion we dealt with did not say "all or part of," so the motions are different.

The Chair: This is not a debatable motion. I have made a ruling. We will move on to subsection 15(4).

Mrs Marland: Is there a provision in committee to challenge the ruling?

The Chair: Yes, you may. The clerk will explain it.

Clerk of the Committee: A challenge to the Chair's ruling is made to the Speaker and a report has to be made by the Clerk, based on the views of all three parties. The committee, if it cannot proceed any further, must adjourn until after that challenge has been dealt with by the Speaker in the House.

Mrs Marland: Thank you.

The Chair: I believe there is a Conservative amendment to subsection 15(4).

Mrs Marland moves that subsection 15(4) of the bill be struck out and the following substituted:

"15(4) If there is an advance determination under section 29 respecting a capital expenditure to which this section applies and the work done or thing purchased is substantially the same as that anticipated in the advance determination, the rent officer shall make an order permitting a rent increase based on the amount actually expended."

Mrs Marland: Mr Chairman, this amendment ensures that those landlords who, in compliance with Bill 51, obtained advance determination for this work and commenced capital work will not be subjected to the caps imposed in either Bill 4 or this legislation.

The Chair: Further comments or questions?

Hon Ms Gigantes: Yes, I have a question. How does this relate to section 29?

Ms Poole: If I might attempt to be helpful, I think this relates to the conditional orders that were granted under Bill 51 and given partial relief under Bill 4 but not total relief.

The Chair: I would feel more comfortable if Mrs Marland or Mr Tilson could clarify the minister's question.

Ms Poole: The Conservative critic just confirmed to me that this is the rationale.

Hon Ms Gigantes: I am not at all clear what this clause is doing. I can understand what is being claimed for it, but I do not think it accomplishes the purpose stated. I think if you look at subsection 15(4) as in the bill, it is quite clear what this subsection is doing. It is saying that

the rent officer shall consider any difference between the actual amount expended and the amount approved in the conditional order or in the advance determination before making a decision on the capital expenditure allowed. I do not really see how the Conservative amendment to subsection 15(4) relates to what is happening in section 15 and I do not see that it is going to accomplish what the mover has said it will. Perhaps she could explain further.

Mrs Marland: I do not see under subsection 15(4) as printed in the minister's bill where it refers to the problem that has arisen with conditional orders. In your wording, that is not addressed.

Hon Ms Gigantes: What is the problem you are trying to solve here, if I could ask?

Mrs Marland: Were you at the public hearings?

Hon Ms Gigantes: I was at some of the public hearings and I read the transcript. I would like to understand what your understanding is of what you are trying to accomplish.

1630

Mrs Marland: As I understand it, one of the major concerns that were brought to this committee—I was not a member of the committee at that time; that is why I asked if you were here then; I did not know whether you were or not—a major concern was where owners of the property had been given permission to make capital expenditures under RRRA, Bill 51; and then Bill 4 came in and, with its retroactivity, it negated those approvals. It is my understanding that the necessity for this amendment is to address that concern.

Hon Ms Gigantes: If the member would take a look at section 29, it sets out how advance determinations are to be made, how they will be treated and disposed under Bill 121. It makes no reference to Bill 51, which is my difficulty in understanding why this motion is worded the way it is. The printed subsection 15(4) in the bill deals with section 29 in the bill and those clearly relate to each other, but there is nothing in the printed section 29 to which this amendment refers which refers to Bill 51. So I do not know really what is going on here.

The Chair: Mrs Marland has the floor, and following Mrs Marland we will go to Ms Poole and Mr Winninger and then Mr Tilson.

Mrs Marland: I am trying to read section 29 that the minister has just referred me to, so I am happy to relinquish the floor while I go forward in the bill and reread section 29.

Ms Poole: This is really becoming frightening. First I agree with the Tories, and now, horror of horrors, I am forced to agree with the socialists.

Mr Abel: You are just an all-round person.

Ms Poole: I think it is a step worse.

Mr Tilson: No, a flip-flop.

Mr Abel: Those are your words.

Ms Poole: No, it is called being forced into very unenviable positions.

The Chair: I think you are teasing all the bears.

Ms Poole: I think so, Mr Chair. To get back to this motion, I have some sympathy with what Mrs Marland is trying to accomplish as far as its stated intent is concerned, that is, advance determinations would be the same as conditional orders under the previous legislation. I think what Mrs Marland is trying to do is to provide that there would not be a cap.

But I agree with the minister. I am not sure this amendment actually does that, and I would like the advice of legislative counsel, because it would seem to me that under Bill 121 there is a decision on the spot and there is no advance determination. If they are subject to the cap, even if Mrs Marland puts in this amendment, it will still be subject to the cap. I would ask legislative counsel if that is her interpretation, because I do not think it accomplishes what the Conservatives intended to accomplish.

Ms Baldwin: If your question is, assuming the Progressive Conservative motion carried, would any finding made with regard to the capital expenditure be subject to the cap when you get into the provisions dealing with the order, the answer is yes.

Ms Poole: Therefore I do not think it does accomplish what Mrs Marland had hoped it would and I would be willing to move that this matter be stood down until such time as Mrs Marland has an opportunity to consult with legislative counsel and her research to see if she would like to change the wording.

The Chair: Do we have unanimous consent? We do not have unanimous consent. Mr Winninger.

Mr Winninger: I can be very brief on this point, because I have looked at this amendment very closely and what I see is this: Pursuant to subsection 15(4) and pursuant to section 29, the landlord comes forward and asks for pre-authorization of a capital repair that would be above the guideline but, as has been mentioned, subject to the cap. The landlord says, "Look, this repair is going to cost $50,000." The rent review officer looks it over and it seems reasonable, it seems appropriate, it is necessary for the structural integrity of the building and $50,000 seems like the right price. The landlord, maybe through inadvertence, maybe deliberately, might have underestimated the cost of that repair, and indeed it costs $200,000 when the amount is actually expended.

Our subsection 15(4) allows the rent review officer to say, "Look, there is a difference here between the amount you predicted and the amount actually expended. Perhaps we should consider allowing you more on it." However, your section makes it mandatory for the rent review officer to allow the amount actually expended, the $200,000. I think that would be of great concern, not only to the rent review officer whose hands are tied, but also to the tenants who have to pay the inflated cost down the road.

What we need is a certain flexibility here. If there is a range of difference between the amount projected and the amount expended, certainly it has to be considered. The existing subsection 15(4) meets that requirement, but your amendment would not be acceptable because it is mandatory and requires that the amount actually expended be allowed by the rent review officer. For that reason, I find it

unsatisfactory. It does not solve your problem with the caps anyway.

Mr Tilson: Under Bill 51, landlords could rely on that advance determination and proceed with certain capital expenditures and certain expenses knowing full well that under Bill 51 they could recover certain expenses.

One of the most common criticisms we heard of Bill 4 when we were going around this province and here in Toronto was the concern of landlords that they relied on the rules put forward by Bill 51 and they made applications for advance determinations. Then along came the NDP with Bill 4 and it put caps on it. They said, "Sorry, it doesn't matter what the Liberals do; we're going to change the rules in midstream." Your government, and Mr Cooke in particular, stood in the House and made representations that he was going to deal with issues like this and with this type of problem.

You have come along with subsection 15(4), and what can the rent officer do? The rent officer "shall consider" any difference. He does not have to do anything. That is no change at all. What we are trying to do is assist you in honouring your commitment to all the landlords and tenants of this province. You changed the rules in midstream and we are trying to give you some credibility. That is why this amendment has been put forward. With this amendment, with an advance determination, it would be subject to the caps put forward either by Bill 4 or by this legislation. That is the intent of the amendment.

The Chair: Shall Mrs Marland's amendment to subsection 15(4) carry?

Mr Tilson: A recorded vote.

The committee divided on Mrs Marland's motion, which was negatived on the following vote:

Ayes–2

Marland, Tilson.

Nays–7

Abel, Gigantes, Harrington, Mammoliti, Marchese, Poole, Winninger.

The Chair: Shall subsection 15(4) carry? Carried.

Mrs Marland moves that section 15 of the bill, as reprinted to show the amendments proposed by the minister, be amended by adding the following subsection:

"15(5): Subsections (2) and (3) of this section do not apply to capital expenditures to which section 16 applies."

1640

Mrs Marland: This amendment ensures that transitional capital expenditure, as defined under section 16, will not be subjected to the eligibility tests described in subsections 15(2) and (3). The application of these tests to transitional expenditures is unfair since these tests did not exist at the time of their undertaking.

The Chair: Questions and comments? Seeing none, shall Mrs Marland's amendment known as 15(5) carry?

Motion negatived.

Section 15, as amended, agreed to.

Section 10:

The Chair: We stood down clause 10(1)(b). I think it would be the appropriate time to move back. There is an amendment on the floor in the name of Mrs Caplan.

Hon Ms Gigantes: Mr Chair, I think we are going to find unanimous agreement on this amendment.

Ms Poole: As hard as it may be to believe, I think we are going to find unanimous agreement. Mr Chair, if I am correct, last week Mrs Caplan, in my absence, introduced an amendment to 10(1)(b). The government indicated it might be a good idea to include "permissible" in the definition in the act, but would have preferred that the wording be slightly different. We have agreed that happened. Now, if my understanding is also correct, because Mrs Caplan substituted for me that day and is not here, I cannot withdraw this motion, so we should defeat the one that is currently on the floor and then reintroduce the new one.

The Chair: Shall Mrs Caplan's amendment to clause 10(1)(b) carry?

Motion negatived.

The Chair: Ms Poole moves that clause 10(1)(b) of the bill, as reprinted to show the amendments proposed by the minister, be struck out and the following substituted:

"(b) All increases that were required or permitted to be added to it and all decreases that were required to be subtracted from it under this act, the Residential Rent Regulation Act, 1986, or the Residential Tenancies Act during the period from the initial rent date to the given date."

Questions or comments?

Hon Ms Gigantes: It is perfect.

The Chair: The minister says it is perfect. Are there other comments?

Ms Poole: I am pleased to acknowledge that what the Liberals are doing is deemed perfect by the minister. Thank you, Minister, for that accolade.

Hon Ms Gigantes: You didn't do it all on your own.

The Chair: Shall clause 10(1)(b) carry? Carried.

Section 10, as amended, agreed to.

Mrs Marland: I am voting against it, as amended.

Section 12:

The Chair: We should go then to section 12, which, as the committee will remember, was stood down at our meeting last Thursday. Dealing with subsections 12(1) and 12(2), I see there is a government amendment.

Hon Ms Gigantes: There is a government amendment.

The Chair: It is as printed?

Hon Ms Gigantes: This is as printed.

The Chair: We are dealing then with the Conservative amendment to subsection 12(1). Mr Tilson has moved it.

Ms Poole: Mr Chair, is it not the usual precedent that the official opposition's amendments come first?

Hon Ms Gigantes: This is on the floor. It was on the floor, was it not?

The Chair: I do not believe, Ms Poole, you have an amendment to subsection 12(1).

Ms Poole: Yes.

The Chair: You do?

Ms Poole: I was told that it was stood down.

The Chair: Perhaps legal counsel could help us out here.

Ms Baldwin: Yes, the Progressive Conservative motion deals with paragraph 1. The Liberal motion deals with paragraphs 3, 4 and 5, and they come after that.

Hon Ms Gigantes: Actually, it deals with paragraph 2 also, in striking out "55%."

Ms Baldwin: Yes, it still is after paragraph 1.

The Chair: Mr Tilson's amendment is on the floor. Comments or questions?

Hon Ms Gigantes: Mr Chair, as I recall, we had quite a good discussion of this item and I had, on behalf of the government, pointed out that federal and provincial taxes are already included in the construction of the guideline used under the bill because they are included in the service charges which form the base for the calculation of the guideline. The one question that was left unaddressed in the government clause was garbage tippage fees, and at this stage we think this is a matter normally dealt with by municipal taxes. If it becomes necessary later to add garbage tippage fees, we will do that.

I would also like to point out that what the amendment does is put into the legislation all the matters that get covered in the guideline. The government position is that we want to have that guideline described in regulation. It will in fact cover all these items except, as I say, the tippage fees. I think the tippage fees make the point that, as services provided change and landlord costs change, it is much easier to deal with them in a timely way and in a representative way within the regulation rather than to have to come back to the Legislature and ask to amend the guideline in the body of the bill each time.

1650

Mrs Marland: My understanding of this section is that, in establishing what the rent control index will be based on, the government wishes to acknowledge that obviously the index has to be based on the operating costs of the building. When the minister says it will be dealt with in a timely way, I do not think, unless she can explain what she means by that—maybe I should let her explain that.

Hon Ms Gigantes: I meant that any changes to the elements that are taken into consideration as landlord costs can be adjusted in a timely fashion if the description of the guideline and the elements involved in the guideline are spelled out by regulation. That means we do not have to come to the Legislature to change the elements which would be taken into consideration. It may be that some time in the future some other costs that landlords will be bearing—and it might be garbage tippage fees—should be added as an element within the costs to the landlord reflected in the guideline. If that is the case, we can do it by regulation in a timely way.

Mrs Marland: I would suggest that does not give any security to the people who have to pay to operate the buildings. Garbage tippage fees are being added all the time in municipalities around this province because of the costs the municipalities are facing in trying to deal with their waste management. If we are not willing to acknowledge that the garbage tippage fee is just as relevant a cost to operating the building as cablevision, the superintendent's salary, insurance, water and sewage fees and municipal, provincial and federal taxes, I do not think the minister is being very realistic.

Are you saying that we will deal with it in regulation when it happens? The fact is that it is happening now and there is no security for the owner of that property when he goes to apply for an increase measured against the rent control index. If the rent control index does not include all the real costs of the building, I suggest it is very unjust. If you are sincere about what the rent control index is, how could you ignore one aspect of it? Maybe you could tell me what you see the rent control index as being.

Hon Ms Gigantes: The rent control index is a summary of those operating costs which landlords pay. The composition of those costs within the guideline is determined on a survey basis, with which, I might point out, landlords have not had trouble in terms of the content for many a year since the guideline was established way back when. How far back does that go? This particular one goes to 1986. I do not think we heard any complaints about the composition of the guideline or its existence in regulation during committee at all.

Mrs Marland: No, and I could believe the minister is correct when she says there has not been a problem, because in the past the cost of the management of garbage has been included in the municipal taxes. However, that is changing, and I can give you an example. Even in my own community, the municipality no longer picks up the garbage at my constituency office. That has now become a cost for the landlord to address. The landlord is now having to pay for commercial pickup of the garbage. You said the rent control index is the operating costs which the landlord must pay. In fairness to landlords, if they have to pay a garbage tippage fee over and above their municipal taxes, which is what is happening today, why can we not be fair and realistic and include it with these other costs?

Hon Ms Gigantes: I feel that, first of all, the intent of this amendment is to place the matter in legislation, and I have explained why that is not the position we are taking.

Second, we are in the process of consulting on the composition of the guideline as it will be used under this legislation. If indeed we get widespread reports that this creates a special new problem for landlords facing their costs, obviously we will want to take that into account in setting up the composition of the new guideline.

I think the member has to recognize that the government feels it should not be in the legislation but in the regulations, and that is the real and practical difference between our position and the one being advanced in this amendment.

Mrs Marland: Can you explain to me why cablevision or water and sewage fees or insurance is not dealt with by guideline?

Hon Ms Gigantes: They are. Take a look at bill 51 and you will see that they currently are. We are, as I said,

consulting on the makeup of what the guidelines should be under Bill 121, but they currently are.

Mrs Marland: Are you saying that currently everything in the rent control index is there by regulation?

Hon Ms Gigantes: Yes, and everything that is mentioned in your amendment, except garbage tippage fees, is currently included in the regulated guideline.

Mrs Marland: Can you tell me, Minister, when you say you are going to be consulting, with whom you will be consulting?

Hon Ms Gigantes: We have consulted, in fact, with members of this committee. Members received notice of the beginning of consultation a good two months ago, I would think, and we have been in touch with a long list of interested parties around the province. In fact, I keep bumping into people and encouraging them to be involved in the discussion when they express interest in this matter. The consultation is not complete; we have not got a report out of it yet, but we expect it fairly soon. I would be glad to share the result with members of the committee. I think I made this commitment the last time we discussed this particular amendment.

Mrs Marland: I do not know the backgrounds of the people on this committee and whether they have residential property that they operate. Maybe they do, but as a member of this committee, if you were to consult with me on the operating costs for a residential building, I would not have a clue. I am not a landlord.

Hon Ms Gigantes: Well, you might say, "I think you might take a look at garbage tippage fees." I would suspect that from the amendment you are putting forward. Then we would be encouraged to look at garbage tippage fees as a matter to be regulated within the guidelines.

Mrs Marland: This is not a complex amendment. I suggest that cablevision, for example, is something that fluctuates in cost, and insurance changes in cost. If you are willing to look at all these other things in terms of the rent index in the past, I am simply asking that you include garbage tippage fees. Why would you not even be willing to look at it?

1700

Hon Ms Gigantes: Mr Chair, if the member is ready to hear me when I say it for the third time, if she, as a member of this committee, thinks that garbage tippage fees should be considered as we look at the composition of the guideline to be used under Bill 121, I certainly will be glad to assure her that it is something that will be considered.

I think perhaps she is not completely familiar with how the guideline has worked until now, which is that we currently have a number of elements included in the guideline. They are superintendents; salary and rent; insurance; heating; hydro; water; municipal taxes; management and administrative overhead; interest and bank charges; bad debts; maintenance, including a whole long list of things; accounting and legal costs; cablevision, and miscellaneous.

Each is given a different weight, depending on what we are finding out in the annual surveys that we take, and there is a three-year rolling average that creates the weight of the cost within the guideline as it is applied each year. That is, for example, the reason why, in spite of the fact that inflation generally is going down, the guideline is moving from 5.4% in 1991 to 6% in 1992. On a three-year average of costs, municipal taxes, among other costs that landlords bear, have been high over the last three years. Heating costs have also been rising over the last three years, and there was one other component, I remember, which was a little bit higher than—

Interjection: Hydro?

Hon Ms Gigantes: No, it was not hydro.

Interjection: GST?

Hon Ms Gigantes: That was it; it was GST. So that is how it operates. That is how we intend to continue operating. We are consulting about the specific ways the guideline can be constructed. We are glad to take the advice that we look at garbage tippage fees. I hope the member will not pursue the matter of trying to get it into the legislation itself any further, because that really does mean it is going to be much harder to accommodate any new costs which, like garbage tippage fees, may be a thing of the future.

Mrs Marland: I am not going to lower myself to enter into this debate with the minister and her sarcasm. If she wishes to be sarcastic about my knowledge of anything, that looks good on her, but I am not going to lower myself to continue this debate. I simply will ignore her comments and will not respond to them. Since I am outnumbered on this committee by government members, I have no chance of getting anything in this legislation that the minister does not agree with, so I will withdraw from further comment on this section.

Ms Poole: I found it quite interesting when the minister said she received no complaints and that during the hearings there were no complaints about the composition of the guideline. I have to agree with her. I have over 35,000 tenants in my riding, and any number of landlords, and not once in the past four and a half years have I received one complaint about the composition of the guideline. I am basically saying, if it ain't broke, why are you trying to fix it? But that debate is for another day.

I do not want to be too helpful to the minister, because then she will rely and depend on my assistance, and if one day it is not forthcoming, she will be devastated. However, I would like to mention that I did ask, as one of my series of 20 questions, literally, to the ministry, why garbage removal costs, including tippage fees, were not included as a category in the rent control index used as the basis of future guidelines. The ministry gave what I thought was quite a good answer and a very extensive answer. I do not know if I will read all of it, because it is almost two pages, but I will just read the summary at the very end. It says:

"However, for the following reasons, these costs have been excluded as a separate building operating costs index category:

"1. For many landlords, garbage removal costs are not an issue. Most small landlords and some large ones have the option of municipal pickup. Some can apply for rebates for costs incurred. Therefore, including these in the index

would be a compensation for many who do not experience the cost increase.

"2. In cases in which garbage removal fees are covered by municipal taxes, these costs have already been reflected in guideline calculations.

"3. For those who experience such costs separately from municipal taxes, any increases would have been reflected in the miscellaneous category in the rent control index."

I just thought I would share that with the committee. Neither the minister nor the Conservative critic had the advantage of sitting through a lot of hearings on Bill 4, where this was quite a contentious issue. I think all members have a copy of the ministry's answers to the questions. I believe they were distributed by the clerk. You might like to review that in more detail at your leisure.

The Chair: Shall Mr Tilson's amendment to paragraph 12(1)1 carry?

Motion negatived.

The Chair: We have a Liberal amendment to subsection 12(1).

Ms Poole: Just to make sure I am doing the right one, we have two relating to subsection 12(1), one that relates to paragraphs 4, 5 and 6 and one that relates to paragraphs 3, 4 and 5. I think one was a substitute for the other.

Hon Ms Gigantes: I just have one.

Ms Poole: You have one of mine and one from the Conservatives. They had the same type in their motion so I thought it was one of ours. I apologize for that. I do not want to take anything from the Conservatives.

The Chair: Ms Poole moves that subsection 12(1) of the bill, as reprinted to show the amendments proposed by the minister, be amended by striking out "55 per cent" in the second line of paragraph 2 and substituting "three fifths" and by striking out paragraphs 3 and 4 and substituting the following: .

"3. The part of the guideline allocated to eligible capital expenditures is equal to 1%.

"4. The part of the guideline allocated to additional operating and capital costs not otherwise covered by the guideline is equal to 1%.

"5. The guideline is the sum of the amounts determined under paragraphs 2, 3 and 4."

Ms Poole, do you have some comments?

Ms Poole: When have you ever known me not to have comments, Mr Chair? The short answer is yes, I do.

The Chair: I will not editorialize.

Ms Poole: The effect of this is to do a number of things. First is that under the old guideline I just referred to, the landlords were allowed 66⅔% as an allowance, when you are looking at the degree to which the costs of running a building were affected by inflation. This guideline seemed to work extremely well for a number of years. But when the government came out with its so-called new, improved rent legislation, what it did was to have two different rates, one for small buildings and one for large buildings. A lot of people said this did not make any sense. Finally, after every witness, whether tenant or landlord, said this did not make any sense, the ministry came up with one guideline instead of two. In its wisdom, it decreed that 55% was going to be the compromise number.

I have a number of problems with the way this all happened. The first is that the ministry did not have any comprehensive study which related specifically to these costs that it could rely on to say that this number should be changed at all. When it did choose a number, it chose one on the low end of it. I am particularly concerned by this because our older stock is in jeopardy of not receiving the proper maintenance. If the money allocated to landlords in the guidelines is reduced significantly, these older buildings are going to suffer and, probably more important, the tenants in those older buildings are going to suffer. You have to keep an adequate amount of money flowing in the guideline to ensure that there are sufficient moneys going into the older buildings to keep them well maintained.

1710

When the Fair Rental Policy Organization of Ontario was here at the hearings, I asked what would be a fair figure. They said the average was 58% but in a new building the costs were quite different than with the older stock. With the older stock it would not only be 66⅔%, it might be 70%, 80% or 90%. We have tried to strike a balance by getting a more reasonable figure.

I have many regrets, but one in particular relating to this section is that the Liberal caucus does not have sufficient funds to do an appropriate study to determine the right figure to use, so we are going on the testimony that was available to us and trying to come up with something that would best serve the interests of the people.

The second part of this guideline amendment is that we have divided the capital allocations for the guideline into two separate sections. Instead of saying 2% for capital, we have said 1% would be allocated to eligible capital expenditures. Those are the types of expenditures that are related in section 15 of Bill 121. The second part of it is that we have allocated another 1% of the guideline amount, which would be to additional operating and capital costs not otherwise covered by the guideline. You might ask what that is. That refers to costs the landlord would no longer receive any moneys for because of changes to the act. This would include things such as painting, changes to the superintendent's wages, new fridges and stoves, which are no longer deemed to be an eligible capital expenditure, and the continuous upkeep of the building.

Members of the government may not appreciate the subtlety of dividing it up, but I can tell you that if you do not make any allowance for things such as continuous upkeep and painting and fridges and stoves, then in many cases the tenants will not get that done. You may say, "But elsewhere in the act we're going to hammer the landlords over the head if they don't abide by the rules," but I have a lot of problems with that theory. Do you not want to solve the problem before it begins? Again, you have to make sufficient moneys flow. Part of the reason for the separation is that at a later date there is another amendment by the Liberal caucus, which I do not want to go into right now, which separates out the deductions from an application as to

whether it is for necessary, eligible capital repairs or for these other costs.

I really think this is a balanced amendment. It does not jeopardize in any way the government's avowed aim of tenant protection. In fact, I think it will do the opposite. I think it will enhance tenant protection, because it should go that extra measure towards making sure those additional costs are taken care of in the building. It might also be some relief to landlords who cannot claim any longer many of the costs they could claim previously under the other system, those who have suffered financial loss. I had problems with the way the former financial loss provisions worked, but on the other hand it is not fair to take it away and say there is no provision whatsoever in any way, shape or form for financial loss.

Again, separating this out will give a little bit extra to those landlords who are suffering, yet less than they were given before under the old guideline which the minister said worked so well. They are being cut off, but make sure you are giving them enough funds flowing into that building to keep it up or we will rue the day that we did not.

Subject to the fact that some of the government members may want to comment on it, I do not have any further comments on this particular resolution. I would like to take this opportunity, though, to table with the committee a new, improved explanation of Liberal amendments to Bill 121. This is revised from the one that was provided to you on the first day of hearings. We have renumbered it to coincide with the government amendments and with the new reprinted act, so if you would take the original explanation of Liberal amendments out of your binders and substitute it with this, it would probably be helpful to you.

The Chair: Thank you, Ms Poole. Are there further questions and comments on Ms Poole's amendment?

Hon Ms Gigantes: Mr Chair, if I could, I would like first to ask Colleen Parrish to comment on some of the issues that were raised in Ms Poole's presentation of the amendment, specifically having to do with what we know about the elements of the guideline touched on in this section.

Ms Parrish: The current guideline in Ontario is calculated on two thirds, essentially, of the rent control index. That number did not really come from any sort of comprehensive study. Essentially that number was derived from a survey done of buildings that came to rent review, a sort of best guess based on those buildings that had come through the previous legislation, the Residential Tenancies Act, for instance. There was the suspicion that it would be a high number, because buildings that tend to request above-guideline increases tend to have higher operating cost ratios. They often come because they have financial or economic loss. However, that was the best evidence they had at the time, so the idea was, "Let's pick that and then later on we'll study this more."

Hon Ms Gigantes: That was 1986.

Ms Parrish: That is right. That was part of the Bill 51, the Rent Review Advisory Committee debate. But everyone knew at the time there was nothing magic about two thirds. It was just an educated guess or the best we could do. Subsequently there has been better evidence because we have had more cases coming through the system. What happened was that we looked at our own cases and noted that certainly there are buildings that have very high operating costs, but that two thirds tended to be higher than was usually the case, certainly higher than the average. We looked at the Royal Lepage study. It said generally that these have been below 50%, as low as 42% or 48%. We then looked at the study that the Fair Rental Policy Organization of Ontario did, which was very helpful. Essentially it said it benchmarked between 51% and 58%, with some variations on both sides—you will always get outriders—with an average coming in at about 56% or 58%.

It seemed to us that 55% was not unreasonable, given the evidence, and in fact I have never seen a study that shows that two thirds is the right number. The evidence is pretty clear that the appropriate number is probably between about 51% and 58%, in that range, so 55% seems not unreasonable.

We then tried to think about how much money was being generated in the system, and that is why we have distributed this chart. As members of the committee may recall from earlier presentations, the estimates of the amount of capital needed to pay for repairs in Ontario buildings over the next 10 years is between $4 billion and $7 billion. This chart tells you how much this new system will likely generate over the same 10-year period with the new, one-size-fits-all guideline. All buildings get 55% plus 2%, and buildings making capital applications get an extra year of carry-forward.

If you add up all these numbers, what you see is that this will generate about $8.5 billion over the next 10-year period. This is actually more money than would have been generated under Bill 121 as it was originally printed in terms of the total amount of capital, because our earlier estimates for the sort of differential guideline and the more restricted carry-forward would have generated somewhere around $7.4 billion in this same period.

Looking at all that information, it seemed 55% was a pretty fair approach that creates a little bit of a cushion in terms of the amount of capital and operating costs the system can generate over this 10-year period.

1720

Ms Poole: My recollection of the FRPO brief and report was not the same as Ms Parrish's, so I just went to check with the source, as the president of FRPO happens to be sitting in the audience right now. He confirmed what I said earlier that the average was actually the correct version and it was not that FRPO said it was between 51% with 58% as the highest limit. What they said was the average was either 56% or 58%, depending on whether it was based on a per-unit or per-building factor.

The interesting thing is that the FRPO study was based on its membership, which is primarily the large buildings and also primarily newer buildings. Their membership does not, generally speaking, comprise a lot of the older stock. The figures for the older stock would be significantly higher than the figures I just quoted.

The second point I would like to make is about the Royal LePage study. I think it became very clear during our deliberations that the Royal LePage study was not formulated for this purpose, and it did not serve this purpose. The other factor about the Royal LePage study is that the ministry gave them seven days' notification—not seven working days, but exactly one week's notification—that it wanted an update of the report prepared for this committee. There were empirical problems with the Royal LePage report, including the fact it was not designed for the purpose for which the ministry was using it and the fact there was not a proper balance of the older stock.

When we are talking about older stock, I think the minister corrected Mrs Marland earlier and said the majority of units in this province are high rise, not low-rise. Mrs Marland was correct. I asked for a document to be sent over, which is lost in the myriad of papers on my desk. The ministry's own figures showed that 60% of the units were low-rise and 40% were high-rise. When you are looking at the fact, generally speaking, that many of your smaller units are the older stock, I do not think they were—

Mr Winninger: On a point of clarification, how do you distinguish between the low-rise and high-rise? What is the cutoff in units?

Ms Poole: These were the ministry figures. If you wait just one moment I will get them for you. I am referring to low-rise with the ministry's designation in the bill when we first started working with it, where it was six units or under, or over six units.

Hon Ms Gigantes: The numbers are 620,000 in buildings with six-plus units and 432,000 in the smaller buildings. If you look at it in terms of five storeys, you could get a different split. I think you will recollect you talked about eight-plus units.

Ms Poole: I have the first page of the ministry's brief right here, page 1.1. This was the ministry's brief of January 15, 1991, from the Bill 4 hearings. It says 40% were high-rise—that is five-plus storeys—and 60% were low-rise.

Hon Ms Gigantes: I did not refer to a high-rise or a low-rise, and neither did you in your earlier comments. I think you used the cutoff of eight units, if you will recollect.

Ms Poole: Actually, it was Mrs Marland.

Hon Ms Gigantes: On that basis, I know it is not the case that the majority are in buildings of less than eight units. It was that issue to which I was speaking.

Ms Poole: I thank the minister for her clarification. The point is that in this province we have a huge number of smaller buildings, many of which comprise the older stock. I gave the figures, in the House and to the committee on several occasions, of the makeup of our older stock. It is very germane to this discussion because we are looking at an average that is suitable for both our older stock and our newer buildings. You have to take both into account. In my mind, 55% is not adequate to take care of our older stock. I would ask Ms Parrish right now if she feels 55% would be a suitable cash flow to take care of the older stock.

Ms Parrish: On average, yes, but there will be cases where the landlords will have problems because they are overfinanced or they have an unusual building. There are cases too where 55% is too much. I agree that when we are talking about 56% or 58% we are talking about averages, and because you can have only one index you have to pick an average number. I think there are cases where the operating costs are as little as 30%, and certainly there are cases where they are more. What the guideline attempts to do is to pick a number which seems to be representative, fair and in the middle. I think the evidence shows 55% is a reasonable number.

I have to say, in all honesty, I have not been able to see any evidence that would demonstrate that two thirds is in fact the number. The evidence just is not there to support that number. I agree any numbers between 51% and 58% you could justify on an average basis.

Hon Ms Gigantes: I think we may be confusing the issue. This is why I suggested, not wishing to be disruptive, the age of the buildings is not really relevant to this question. I think there is a type of building that has particular problems. Just because a building is 30 years old does not mean it is going to cost more in repairs or to operate. A well-built and well-maintained 30-year-old building can be very cheap to operate, particularly if it has been held by the same owner for some time and the financing costs are low. The age of the building is not the real question.

Both in public and in private landlords have made it very clear the buildings that are causing the greatest difficulties to operate and that also need the greatest capital repairs are buildings that were built in the mid-1950s to early-1970s, which are the first generation of high-rises with balconies and underground parking where design and technology really had not reached the level either have today or in the recent past. I think it is that generation of building where there have been real difficulties in terms of maintenance and in terms of capital investment. I think Colleen's contribution really indicates that 55% is a pretty good operating guideline, plus 2% for ongoing capital costs.

Ms Poole: I really cannot believe I just heard the minister say the age was irrelevant.

1730

Hon Ms Gigantes: It is not the relevant factor.

Ms Poole: Is is an extremely relevant factor if you think of a building that is 50 years old and has plumbing that is 50 years old and requires constant repair, electrical work that is 50 years old and requires constant repair, a heating system that is probably based on oil and boilers that break down constantly and 50-year-old windows. You know how much heat they will let out. Every witness we had—these are people who deal with it. They know what they are talking about.

Hon Ms Gigantes: I live in a 65-year-old house.

Ms Poole: You do not operate it.

Hon Ms Gigantes: I sure do. It does not cost any more to maintain a certain age of building if it is properly maintained all the way along. If you tell me somebody

buys a building that has not been maintained and expects to be able to operate it at an average operating cost, I think that is true, there are going to be problems.

Ms Poole: In that 65-year-old house, have you replaced the windows or the doors?

Hon Ms Gigantes: They have been replaced. Obvious maintenance would require that.

Ms Poole: Have you put in a new heating system?

Hon Ms Gigantes: There has been a new heating system. That has taken place over decades and the costs have been borne over decades. That is normal, and those are not operating costs, they are capital costs. You do not run a building and expect it not to cost money. Of course it costs money. What we are doing here is trying to determine what is a normal amount for operations, and the age of the building is not the most relevant factor. I think the landlord groups will tell you that.

Ms Poole: Nobody has told us that.

Hon Ms Gigantes: I am telling you on behalf of landlords who have said it to me.

Ms Poole: I am sorry, you are wrong. At the very end you made a differentiating factor between capital and operating.

Hon Ms Gigantes: Yes.

Ms Poole: I have been in a lot of old buildings in my riding; they have the old plumbing and the old heating system. And there has not been neglect; they are clean, the landlords are taking care of them. They fix the boiler when it breaks down for the 15th time.

Hon Ms Gigantes: But at some time you get a new boiler. That is a capital expense and that is provided for within this legislation.

Ms Poole: Do not mix apples and oranges. In the guideline we are talking about the operating expenses, whether it costs more to have an older building or a newer building.

Hon Ms Gigantes: Who asked about capital expenses? First, we are discussing operating, then you put to me questions that relate to capital, and then you accuse me of mixing them up.

Ms Poole: Because you used a personal example of your 65-year-old house where you find everything hunky-dory.

Hon Ms Gigantes: No, there are operating expenses.

Ms Poole: I said the reason it does not cost more to operate—

Mr Mammoliti: I did not hear her say hunky-dory.

Ms Poole: No, the minister did not say hunky-dory.

Hon Ms Gigantes: I did say that the age of the building is not the relevant question here.

Ms Poole: Mr Mammoliti, if it makes you feel better, I will withdraw hunky-dory. She said it did not cost any more to operate her building than it did a new one. Of course it did not because in effect it is a new building. It has had everything replaced in it. I am saying, if you have a building that has received relatively little renovation—and that is the reality whether you know it, whether you appreciate it, whether you admit it, that is the reality. We are dealing with buildings like that and those are the ones we have to protect with this legislation.

You are saying that is irrelevant. Why do you think your government changed what you originally put in as the guideline? Because those witnesses came and said it does not make any sense to have two guidelines. Those same witnesses said if you want to have a different guideline based on age, older and newer stock, that makes sense. They said they did not like it because it confused the issue.

Hon Ms Gigantes: It sure does.

Ms Poole: It does. I am not objecting to the fact that you have one guideline to cover all. I am saying you have to ensure that the guideline figure you have picked is going to be sufficient to protect the aging housing stock. I do not see how you have proven in any way, shape or form that 55% is sufficient. When you say nothing has been proven that the two-thirds figure should have been used, I can point out a couple of things.

First, that guideline was perfectly adequate and we did not have complaints about it for years. If you look at the figures comparing what the annual guideline increase was compared to CPI, compared to the inflation rate, you will find the guideline was very much in keeping. If you look at the guideline from 1976, when we first had rent review, to today, you will find on the average that tenants have fared relatively well with the guideline.

If you add up the guideline increases compared to inflationary increases or CPI increases, you will find tenants have received an extremely high level of protection with the guideline we have in place. Arbitrarily using words like, "suspicion," "it was high," "this seemed like a reasonable figure"—The minister said, "This figure is pretty good," and that is a direct quote; I copied it down, George. Well, pretty good is not good enough. I think if we are going to come out with something that is going to stand the test of time, it has to be accurate, and proven that it is better than what went on before. I do not see how you have proven your case.

Mrs Marland: I totally support the amendment placed by the official opposition. I am just as amazed as the official opposition critic by the minister's comments, which have just reinforced her incompetence as the Minister of Housing.

Mr Winninger: Harsh words.

Mr Mammoliti: What is this, Margaret?

Mrs Marland: It is incompetent for a Minister of Housing to sit in this committee and say the age of the building is not the question when we are dealing with the operating costs. I do not think it takes a rocket scientist to understand that the age of a building is very relevant to the cost of operating that building. In fairness to the official opposition critic, I think she made her argument very carefully.

When you visit an older building and sit in those apartments, you feel the draught coming through the windows if they have not had the money to make the capital improvement by replacing windows. I suggest to you that for

a building I am familiar with, which is only 33 years old, the cost of replacing those windows is a major capital expenditure. If you are going to look at operating costs and try to reduce your operating costs as a property owner, you are certainly going to look at what is driving the operating costs, and loss of heat through poor windows is the first thing. It is pretty elementary.

If you have not been able to make that capital improvement on your building, then your operating cost is far greater than a newer, more modern building that does not have single-pane glazing. Of course, with an older building you have greater breakdowns with plumbing and electrical equipment. Old, rusty pipes in an old apartment building cause all kinds of problems with the appliances in the kitchens and bathrooms of those buildings, and if you are talking about steam water heating—any of those examples—I think for this minister to say the age of the building is not relevant is an incredible example of the absurd.

For her to assume that people have had the money to renovate those systems in older buildings that make the operating costs so high, I think, is totally unfair. It is fine for her to say she lives in a 65-year-old building; then we hear everything in it has been upgraded. The operating costs would be comparable with a modern building because she actually now has a modern, renovated building. She may have a 65-year-old house but she certainly does not have a 65-year-old house that functions the way a 65-year-old house does that has not had the benefit of the replacement of those components that drive up the operating cost. I think it is very unfair to the thousands of tenants who live in older buildings in this province that the kind of limitation being talked about here—because it is very obvious that the socialist government is not going to support the amendment to make the operating-cost ratio more relevant. It is unfair because, with the limit of available alternatives for people who live in the older housing stock in this province, we know there are no alternatives for those people to move to.

1740

We know that for the most part a lot of them are on fixed incomes and do not have the option of moving out because their building does not have the maintenance that is needed. You are saying this is the limit you will recognize as an operating cost. It is totally unfair to those tenants, but if this socialist government is happy to sit back and let the housing stock in this province deteriorate because you say the age of the building is not a question when you are dealing with operating costs, then I think it is the most rotten situation you could be part of.

The irony, of course, is that we are sitting here spending time on this bill when we obviously have no leverage on the government. Perhaps we should ask the government which of the 190 amendments it is willing to support. Are we just going through an exercise where each of the two opposition parties' amendments are going to come up and you are going to argue against them with such tremendous knowledge that you would say the age of a building is not a question in terms of operating costs? If that is what we are going to go through, and the majority of votes are with the government members on this committee, then the whole process is an exercise in futility.

Perhaps if there are amendments the minister is willing to consider and has aligned the whip of the committee with directions about—amendments by the opposition parties that you are going to support—maybe we should get to those, because obviously this minister has a closed mind. I could understand somebody who did not have the responsibility for housing in this province or who had no knowledge of the subject, saying the age of the building is not the question, but if this minister does not know better than that, it is unbelievable.

We are in a worse situation with the Minister of Housing in this province today than I thought we were. It is no wonder we have a minister who brings a bill to this Legislature, brings in 99 amendments or changes to that bill and then says, "Some of the matters that will be associated with the act I personally need to give more thought to." No wonder we are in such a mess. It is totally unbelievable and unacceptable from this minister.

Hon Ms Gigantes: Mr Chair, if I could—

Mrs Marland: I think it is great when the staff all think everything is so humorous that they do not face their responsibilities. I think it is pretty significant.

Hon Ms Gigantes: I would like to take this opportunity to remind members of the opposition what is included in operating costs under the guideline. I am going to read out the weights as they apply now. If the guideline now is taken as 100%, the superintendent's salary and rent is currently 7.73% of that 100%. What makes that more expensive in an older building? The insurance is currently 1.93% of the 100%. What makes insurance for an older building more expensive? It may in fact be lower. Heating makes up 13.82% of the 100%. It may, in fact, be more costly in an older building. Hydro is 7.41%.

Ms Poole: What about that?

Hon Ms Gigantes: That will likely be the same in an older building as in a new building. Water is 3.3% of the 100%. It is unlikely to be higher in an older building. Municipal taxes are 38.4%, which is the largest single component. Municipal taxes for an older building are likely to be lower. Management and administrative overhead constitutes 8.96% of the 100%. I cannot see why it should be more in an older building. Interest and bank charges currently are 0.6%—less than 1%—under the guideline. Again, I cannot see any inherent reason why they should be more in an older building than a later-built building.

Bad debts are allowed 0.5%. Under maintenance, which totals 14.92%, we have items such as painting and decorating, which is allowed 1.72%; cleaning and janitorial service, which is allowed 1.24%; elevator maintenance, which you do not often find in these older buildings that you are talking about, old low-rises do not have elevators, 0.76%. Plumbing and electrical repairs, a big item, is 2.58%. That is an average across all the buildings we are dealing with.

General building maintenance is 7.36%. It might vary for an older building; it might be higher for a newer building.

There is no predetermined way of knowing that, except to know the design of the building and how it is being maintained. Snow removal and grounds-keeping are allowed 0.67%, less than 1%; appliance repairs, 0.2%, less than 1%. Then we get to accounting and legal costs, which are permitted 0.6%. Cablevision costs are 0.5%, and miscellaneous, which might include garbage tippage, is 1.33%.

Clearly, the biggest item in this list is municipal taxes. Currently, as we have revised the guideline for next year under the existing calculation, we are almost at 40% as the municipal taxes component in the 100% of the total guideline. So I would like to suggest there is very good reason for saying there should not inherently be a reason to expect higher operating costs in older buildings than in more recently built buildings. Again, I do not think that is a relevant consideration when we are looking at this question.

1750

Given the information we have placed before the committee—which the Liberal critic may not have noticed as she was having another discussion when we put this before the committee, and we would like to table it with the clerk—the estimate of the potential capital to be generated under the guideline we are proposing, along with the capital allocation and the eligible capital applications landlords can make, will generate enough money within the total system to be able to overreach the highest estimate anybody has made of what the need for capital availability will be.

For all those reasons, I think the proposal we are putting forward as we move to one guideline in this amendment, as opposed to the two which had earlier been proposed by my predecessor—I did not table this legislation, in spite of what Mrs Marland had to say—we think the 55% plus the 2% in an ordinary year for the ordinary landlord is going to provide more than enough money.

Also, where the landlord faces the boiler that has broken down 15 times or the windows that need replacement after 50 or 60 years, we are providing an element within the legislation where the landlord can, over a period of time, do work that is allowed above the guideline, at the level of 3%, but the landlord will have to apply and justify that application for an additional capital expenditure. Frankly, I think any landlord who cannot make this system work has more troubles than any legislation is going to solve.

Mrs Marland: Not nearly as many troubles as the tenants are going to have. The tenants are the people who are going to suffer.

Mr Abel: At least they will have a place to live.

Mrs Marland: No, they will not have a place to live.

Mr Mammoliti: I have sat here all afternoon and listened to both opposition parties. Everything they have said adds up to one thing, and that is that they want the tenants to pay more. I cannot accept that argument. I think that, as the minister has just said, 55% plus the 2% is sufficient.

Ms Poole: What do you base that on?

Mr Mammoliti: If it is not, if the landlords do have to dish some money out of their own pockets, I do not have a problem with that. I have said that from day one. We have heard consistently in this committee from landlords—

Mrs Marland: Welcome to Russia.

Mr Mammoliti: She is talking out of her ear again, Mr Chairman.

We have heard consistently in this committee from landlords telling us they want to make a profit. We have toured the province and they have told us consistently that they want to make a profit. They want to make a long-term profit. They want to retire to Florida. They want to retire to Europe. They want to retire and they want to make a hefty little profit on the side.

Hon Ms Gigantes: George, we all do.

Mr Mammoliti: Of course we all do.

Mrs Marland: I am really glad this is on the record.

The Chair: Mrs Marland, you will have your opportunity.

Mr Mammoliti: Yes, so am I. I am glad it is on the record and I am glad everybody is watching, because I have not hidden my feelings from day one. If the landlords have to pay a little out of their pockets, so what? In the long run, they are going to make a profit on the building. The tenants know that, the landlords know that, everybody in Ontario knows that. What we are hearing here from both opposition parties is, "Let's see how much we can scrape out of the tenants. Let's try and scrape as much out of their pockets as possible." That is incredible.

Mrs Y. O'Neill: It is incredible that you should think that.

Mr Mammoliti: You should be ashamed of yourselves for even considering that argument. Tenants have had enough; 53 years of Conservative rule—43 years.

Mrs Marland: You do not even have your figures right.

Mr Mammoliti: My apologies. Another five from the Liberals. Close to 50 years of torture. That is enough. I say this on behalf of tenants in my riding of Yorkview: It is enough.

Ms Poole: You are sounding like an idiot, George.

The Chair: One at a time. Mr Mammoliti.

Mr Mammoliti: I may be sounding like an idiot, Ms Poole, but I tell you, the tenants in my riding want to hear from this idiot. They do not want to hear from that idiot over there, that is for sure. I have to make the point that the injustice the official opposition and the third party want to put upon the tenants of Ontario is ludicrous. I cannot accept that.

If the landlords cannot face up to the fact that they may have to dish out a little bit, then, as the minister says, there is no piece of legislation that will make them happy. There is not a piece of legislation that this government—well, maybe the Conservatives and the Liberals can. Bill 51 certainly made a lot of landlords happy. But in terms of legislation, I agree with the minister that nothing would make them happy. We are fair. We are trying to be as fair as possible. You have seen amendments come out of this government. You have seen us listen. We have listened from

day one. If you look back at our original proposals, our original pieces of legislation, both Bill 4 and Bill 121, you will see that we have made significant changes. The argument that both have used this afternoon in saying that we have not listened, I am sorry, I cannot agree with that. We have; just a few minutes ago we agreed to one of the Liberal amendments.

Hon Ms Gigantes: Two this afternoon.

Mr Mammoliti: Two. There you go. That is significant and that is probably more than any other government has done in an afternoon.

Interjection.

The Chair: One at a time. Mr Mammoliti has the floor.

Mr Mammoliti: Our critic put forward in front of the previous government, I believe, 51 amendments. All of them were turned down by the previous government. If I am mistaken, tell me. Just this afternoon alone we did one hell of a lot more than the Liberals did with our critic back then. That is significant.

I am going to close. I will continue these proceedings and I will continue fighting for the tenants because that is what the tenants want. They want to hear again from this idiot, which you called me earlier, Ms Poole. Frankly, I hope a lot of my tenants write to you and tell you how much they object to your calling me names, because I do.

Ms Poole: I apologize for calling you names, George.

Mr Mammoliti: I was going to close, but that brings me to another topic, Mr Chairman. I have never seen anybody so insensitive as Mrs Marland and Mrs Poole, continually insulting the minister and insulting the people on this side of the committee.

Mrs Marland: We learned from your party when it was in opposition. Just read some of the old Hansards and you'll find out what your people did.

Mr Mammoliti: She is talking out of her ear again, Mr Chairman.

Interjections.

The Chair: Order.

Ms Poole: You should have had to sit through what Peter Kormos had to say to witnesses, calling them slime and scumbags. It was disgusting. Then maybe you'd have a point.

The Chair: Order. Mr Mammoliti.

Mr Mammoliti: I cannot accept the insults that have been dished out from day one, the first day we met with Bill 4, especially from the Conservative Party.

Mrs Marland: Oh, especially from the Conservative Party.

Mr Mammoliti: You know, you are a welcome addition to this committee because you are filling the shoes of individuals who are just as insulting and insensitive as you are, Mrs Marland.

The Chair: Ms Poole on a point of order.

Ms Poole: We have been subjected to a barrage of insults.

The Chair: What is the point of order?

Ms Poole: Mr Chairman, this was from the man who told us we would solve all underground parking problems if the landlord did not use salt on his driveway.

The Chair: I do not see a point of order there, Mrs Poole. Mr Mammoliti has the floor.

Mr Mammoliti: Wake up.

Hon Ms Gigantes: George, calm down.

Mr Mammoliti: There is one person in my caucus who can calm me down, Mr Chairman, and that is the minister. The minister has done a wonderful job of keeping me in line and saying, "George, you've gotten your point across," and I think I have. If there is somebody in caucus who can do that, it is the minister, who Mrs Marland said was incompetent. I do not agree with that. She is doing a wonderful job. I say thank you from the tenants in the riding of Yorkview and across Ontario. I will close, Mr Chairman. Thank you very much.

The Chair: Thank you, Mr Mammoliti. It being 6 o'clock—

Mrs Y. O'Neill: Before we close, Mr Chairman, may we ask the minister to table with us the document from which she read regarding the costing components.

Hon Ms Gigantes: Sure thing. We would be delighted to do that.

The Chair: I still have three people who have indicated they wish to be heard on this particular amendment: Mrs O'Neill, Ms Poole and Mrs Marland, in that order. We will take that up next Thursday morning.

I have a letter from the chief government whip who tells us that the whips of three parties are preparing for the winter sitting schedule and would like to know how much time we will require. If I can, I will try to get a meeting of the subcommittee arranged at a mutually convenient time for next week and we can talk about that.

The committee adjourned at 1802.

CONTENTS

Thursday 28 November 1991

Election of Vice-Chair G-1739
Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1739

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Le jeudi 5 décembre 1991

Standing committee on general government

Rent Control Act, 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle des loyers

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 5 December 1991

The committee met at 1009 in room 151.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation / Projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Acting Chair (Mrs Y. O'Neill): If I may begin the meeting of the standing committee on general government, we will be resuming debate on Ms Poole's amendment to subsection 12(1). Ms Poole, would you like to refresh our minds just as we begin this morning?

Ms Poole: First of all, I have to find my mind. Maybe that would help.

The Acting Chair (Mrs Y. O'Neill): I will let others decide what that means and we will proceed.

Ms Poole: Just before we commence, I thought I would point out something for the committee. This is a rather historic day. We have a female Chair, a female clerk, a female legislative counsel, a female parliamentary assistant, a female opposition Housing critic and a female Conservative Housing critic. I think it is rather a milestone.

The Acting Chair (Mrs Y. O'Neill): Did you mention a female minister?

Ms Poole: Did I miss you, Minister?

Hon Ms Gigantes: I lost count.

Ms Poole: If I did, you certainly were supposed to be on that list, very near the top. We also have a female adviser to the minister and a female Hansard. I think we are taking over the world, ladies and gentlemen. At least we are certainly making great progress.

The Acting Chair (Mrs Y. O'Neill): You must have had an interesting breakfast. Let's begin.

Ms Poole: Perhaps you are wrong, because I did not have any breakfast.

Section 12:

Ms Poole: Going back to subsection 12(1), which we had started to debate at the end of the last session, this amendment would do a number of things. The first is that it would amend the 55% figure provided by the government in the guideline amount, because we felt that would not significantly cover the changes in operating costs for landlords in older buildings. We are extremely concerned about our aging housing stock and the fact that sufficient funds be flowed through the guideline to ensure that the maintenance is kept up to date in those buildings. Quite frankly, I think it is not a landlord issue. It is a tenant issue in that tenants have to live in these buildings. If sufficient funds are not flowing in the guideline to maintain the buildings, they will be the ones to suffer.

The secondary issue is the buildings themselves. I think we all recognize that many of our buildings in Ontario are older and require significant maintenance. The minister tabled a regulation last week which was active under the Residential Rent Regulation Act. These are the various components and the weights they hold when looking at the various costs relating to a building. If you look at the costs, you will find that a significant number of them have a much greater impact on older buildings.

One is heating, which has a 13.82% weight, and this was combined oil and gas set by the consumer price index. Heating is definitely one area where it is not only a significant increase in an older building over a new building; in some cases, it is an astronomical one. In our own house, which is an older house built in 1926, about six or seven years ago we converted from oil to gas. Our fuel bills halved when we made that change. To have a 50% reduction in your fuel bill signifies how important the heating is in the older buildings and the fact that many of them are still based on oil and are extremely expensive to run.

Look at items such as hydro. For those buildings that do have electrical heat, it costs far more. Not only that, many of the older buildings have baseboard heaters. They have to, because the heating system that is in place simply cannot do the job.

There are a number of others, of course. Going down the list, maintenance is 14.92%. Again, it is far more difficult to keep the maintenance up on an older building than a newer one. If you look at the various factors included in that, I think you will agree most of them are significantly different for an older building.

When all is said and done, a major proportion of these components do have a different effect in an older building than a newer one. Even the minister mentioned elevators, and she is right in that new buildings are more prone to have elevators, but I am sure we have all been in some older buildings of three, four, five or six storeys and have seen the elevators in those buildings. They spend more time being broken down than they do repaired, yet the cost of replacing them is so expensive many of the landlords have not done it.

There is also the tendency with our older housing stock that many of the buildings are smaller buildings, and by smaller I do not necessarily mean duplexes or fourplexes, although there are certainly plenty of those. I am talking about buildings which have four, five or six storeys, and those buildings, in many cases, are owned by small landlords. They have not had the money to put into changing over the heating system and the electrical system, putting in new plumbing, wiring, windows—the type of things that would make significant cost differentials.

The Liberal caucus's position is that the ministry has not established that it has empirical evidence to choose the

magic number and it is one of my regrets that the ministry has not chosen to get a study in this regard. I am not one to do study after study, but where you do not have reliable information in an area, particularly when it is something like the guideline, which is so crucial to running and maintaining a building—it is also crucial for the tenants that they have a reasonable guideline amount, but they have to be reflective of the costs. That is the balance you are trying to achieve.

I do not feel that the government has provided that evidence and that the magic number it has chosen is adequate. That is based on what testimony we have before us. It would appear that 60% is a more reasonable number. I do not like the fact that the Liberal caucus has been forced into the position of just saying, willy-nilly, based on expert evidence, that 60% is a reasonable number. Landlords have contended that even that is too low, but we do not have the resources and the money to go and commission a study to find out. That is the first point, which I think we spent a fair amount of time talking about the other day.

There are several other parts to our amendment. One of significance is the fact that instead of having 2% allocated to capital, we have been very specific in the guideline about what proportion goes to capital and what type of capital. We have recommended that 1% of the guideline go to eligible capital, and that is the type of capital elaborated upon in, I think, section 15—anyway, the section on eligible capital.

The second part of it is that 1% be allocated to the part of the guideline that deals with additional operating and capital costs not otherwise covered by the guideline. One of the difficulties when you change legislation is that sometimes you change one portion of the legislation and it impacts on another section. For instance, with eligible capital expenditures, once upon a time it used to be, and I guess still is—except for Bill 4—that you could, if you were a landlord, put through things such as painting costs and fridges and stoves as capital expenditure. Well, they are no longer eligible as capital expenditures. The cannot be so-called "claimed," and yet in many cases it is important that they be there.

I have had calls from tenants on both sides. Some are phoning to complain that their 30-year-old fridge is perfectly good and has been replaced and that they had to pay for this in their rent. But then I have had a significant number of calls on the other side where tenants say they are replacing this 30-year-old fridge, thank God, because it breaks down every second week. Some of the tenants are cognizant of the fact that if a landlord has to constantly repair these old refrigerators—sometimes they cannot get parts—it is a very expensive repair, and they support that decision. Others do not.

But getting back to the point, fridges and stoves no longer can be claimed as eligible capital expenditures. Therefore, there has to be a component in the guideline to cover all these things that may seem fairly small. If you do not make a reasonable allocation for that, then the landlord is not going to replace those. Where this has a bearing on another part of the act is that we really want landlords to do the capital repairs. If we do not, our housing stock is going to fall down and tenants are going to live in slums. It is that simple.

1020

Surely the government members, who say that they are very concerned about protection for tenants, have to realize that getting these capital repairs done is crucial. I have had many conversations with landlords who are telling me that if they are only going to get 60-cent dollars back when they do the capital repairs, they are not going to do them.

What this motion does is it affects later on where the Liberal government—sorry, Freudian slip there; maybe wishful thinking, maybe not—where the Liberal caucus has said we think it is fair if you deduct the 1% when a landlord goes to ask for reimbursement for capital he has spent. We think 1% is more reasonable. The landlord will accept the 1% because it is in the guideline. He is getting a certain amount for that capital expenditure and can still have enough left over that he is encouraged to make those capital replacements. While I did not really want to get into what we are doing in another part of the act, it has a great significance on why we are dealing with this right now. That is why we have separated out 1% for eligible and 1% for other capital, so that at a later stage, when we are moving our other amendment, this will be in synch.

I feel this amendment is not a radical one, yet it will provide the landlords with enough flow-through of moneys to ensure that our buildings are properly maintained and cared for. I think in the bottom line that is our goal. That is all I have to say at this time.

The Acting Chair (Mrs Y. O'Neill): Thank you for refreshing our minds. Are there any further comments?

Mr Tilson: The proposed Liberal amendment appears to be very similar to the proposed Conservative amendment we will be introducing shortly.

Ms Poole: Oh, I am going to have to withdraw it. I am sorry.

Mr Tilson: The only distinction I can see—I guess this is a question to Ms Poole—is that there does not appear to be any allowance for profit. I believe the Liberal caucus believes that landlords should be allowed to make profits. I am not so sure the government believes in that or it would not have phrased its bill the way it has. But the amendment does not seem to address that issue, unless I am not reading it correctly. We use that word in our amendment. We specifically say that terrible word everybody talks about—"profit."

Ms Poole: Mr Tilson is perfectly correct. We do not have that nasty word "profit" in our amendment. There is a reason for that. In Bob Rae's Ontario of the past year it has become clear that "profit" is no longer a politically correct word. I have tried to structure our amendments to be workable and acceptable to the government, to get some opportunity that they might pass and to rectify what we conceive as flaws in the legislation. I knew as soon as I put "profit" into this amendment there would be no further consideration of the amendment.

The Acting Chair (Mrs Y. O'Neill): You will not be withdrawing your amendment. That was just in jest.

Ms Poole: No. When Mr Tilson said that the Tories' amendment and ours were very similar, I thought there must be something wrong with our amendment, so I had a fleeting thought to withdraw it, but I was just being facetious.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, do you want to continue?

Mr Tilson: I have no hesitation in dealing with the word "profit." It gives me grave concern. Section 12 is probably one of the most important sections in the bill and it is probably one of the most difficult to understand, at least for the average layman. I can honestly say it is one of the most difficult for me to understand. I hope I am one of the average laymen. It is. I find it very difficult to understand but I know it does not allow for profit.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, I am going to have to ask you to speak to Ms Poole's motion. You are talking to the PC motion now.

Mr Tilson: Madam Chair, I will return to section 12 and the proposed amendment by Ms Poole. The subsection Ms Poole has put forward does not deal with the issue of profit, which leads me to believe the Liberal caucus does not like the word "profit" either. She has said she is doing it because she knows the government does not like the word "profit." She knows the government does not want the people of Ontario to be able to make a profit and therefore she will modify the Liberal position.

I do not believe the housing stock in this province can be maintained or improved, or that new housing stock can be constructed, if the government simply takes it over itself, which is what has been clearly stated by this government and the Premier. Their plan is to take over the housing industry. They do not allow for anyone to make a profit.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, I have to remind you that we have an amendment before us that does not contain the word "profit." You are talking to something you will be presenting later.

Mr Tilson: With all due respect, I am talking about this amendment. This amendment is silent of the word "profit."

The Acting Chair (Mrs Y. O'Neill): Correct.

Mr Tilson: The Liberal amendment does not—

The Acting Chair (Mrs Y. O'Neill): It is a very fine line you are drawing about whether you are speaking to this motion. Ms Poole has explained twice why the word does not appear and I think you are speaking beyond the amendment. I am sorry, but that is my judgement. Unless you can relate your comments to this amendment, as presented, then I am having trouble with your remarks.

Mr Tilson: Madam Chair, with all due respect, it is so difficult that I do not think you understand it. Clearly the amendment is silent of the word "profit."

The Acting Chair (Mrs Y. O'Neill): I understand that quite well.

Mr Tilson: I do believe I have the right to speak on this amendment. I have the right to question the amendment. I have the right to make comments on the amendment. You are precluding me from doing that.

The Acting Chair (Mrs Y. O'Neill): I am trying to listen to you referring to paragraphs 3, 4 or 5 of this amendment or to the main amendment regarding the changing of the amount within the legislation, but I have not heard any of that yet. I am hearing you speak about something that is not before us.

Mr Tilson: I am saying specifically that I certainly support the intent of the amendment but that does not go far enough. Surely I have the right to speak to that. There is something wrong with the system if I cannot be critical of the amendment.

The Acting Chair (Mrs Y. O'Neill): All right, continue. It is confusing because your amendment coming later is about what you are talking about now. That is why I am confused.

Mr Tilson: Well, I had planned to talk about that then too and I wish to talk about it now. Ms Poole is talking about how she is trying to persuade the government to change its mind and I am trying to persuade Ms Poole to change her mind. There is nothing wrong with my doing that.

The Acting Chair (Mrs Y. O'Neill): Fine, fine.

1030

Mr Tilson: Thank you. Certainly the whole residential complex cost index formula does not allow for profit. It does not allow for drastic inflation in increases, which is why Ms Poole has put forward her amendment. The whole issue of maintenance cost is a concern that both our caucus and the Liberal caucus have. As Ms Poole has indicated, the large percentage, the majority of the buildings in this province are 20 years old or older and are going to require major renovation costs just to keep them safe. They are going to require major expenditures just to maintain the quality of life of the tenants of this province, because if they are not undertaken and the landlords are not encouraged to make these improvements, the quality of life of the tenants will decrease. This legislation the government has put forward does not allow for that, which is obviously one of the reasons Ms Poole has put forward her amendment to partially address that whole issue of renovation costs.

There is no question that we have seen in recent years how maintenance and renovation costs could, for unknown economic reasons, make substantial jumps. In other words, the costs today could accelerate in five years. Those costs could accelerate unbelievably in a year, in which case section 12 would not deal with those increases. That is one of the reasons Ms Poole has put forward her amendment.

There is the whole issue of making purchases for an apartment unit, the necessity to purchase new refrigerators or new stoves, new purchases such as those, particularly in the older buildings where it is impossible to continue to repair the appliances over and over. New purchases are required. We have seen in the past how the costs of such purchases could accelerate. Again, section 12 does not allow for the tremendous increases that could result. It is another reason Ms Poole has put forward her amendment.

There is the whole issue of employment costs. These buildings require people to maintain them, whether it be superintendents or just maintenance people, whether they

are on contract or are actually working for the landlord. The employment costs could accelerate far beyond what the formula puts forward.

Again, and more important, there is the whole issue of profit. I support the amendment for all the above reasons I have just referred to, but the one item it is silent on—I have difficulty as to why it is not in there—is the issue of profit. The government will come back and say, "Look how the landlords have ripped off the tenants of this province." They will give their standard speech about marble foyers and 100% increases and all those standard speeches we have heard over and over, which are so minute that they are not true.

Interjection.

Mr Tilson: That is the fact. Facts have been put forward in this committee that show that the marble foyer argument and the 100% increases are not as drastic as this government has been putting forward. It has been almost the creation of the big lie. There have been some installations of marble foyers. There have been some large rent increases.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, you know you are getting awfully close when you are talking about the "big lie." I have to ask you, do you want to place an amendment to this amendment? You have been given quite a few minutes now to try to convince Ms Poole to change her amendment. I do not know whether you have been direct enough that she would know what you would want to change in it, so I am giving you the opportunity now to give us some direction.

Mr Tilson: Madam Chair, surely I have the right to make comments to this committee. You have no right to interrupt me as you are.

The Acting Chair (Mrs Y. O'Neill): Well, "big lie"—

Mr Tilson: You are continually interrupting me and you have no right to do that.

The Acting Chair (Mrs Y. O'Neill): I do when you talk about "big lie." I am sorry, I do.

Mr Mammoliti: You cannot call somebody a liar.

The Acting Chair (Mrs Y. O'Neill): "Big lie" is just verging a little too close.

Mr Tilson: Madam Chair, I have every right to speak to this amendment, and you are continually interrupting me and not allowing me to speak to this amendment.

The Acting Chair (Mrs Y. O'Neill): I am trying to ask you if you would like to place an amendment.

Mr Tilson: I want to speak to the amendment. I want to criticize it. I want to compliment it and I want to criticize it, and you are precluding me from doing that.

The Acting Chair (Mrs Y. O'Neill): Continue, please.

Mr Tilson: Madam Chair, I have listed the reasons for support of the amendment, but the difficulty I have with it is that the section does not, as the amendment is put forward, include the issue of profit. There needs to be some effort put forward in this bill to encourage development of apartment units across this province. There is nothing in this bill that does that.

Anyone who builds an apartment building today, unless they are building non-profit buildings or co-op buildings, is out of his or her head. It simply does not pay them to do it, because they will ultimately be operating at a loss. With the cost of inflation, with the cost of construction, with the increased costs of all of these matters which are not being allowed by this section, there is no incentive for them to put up these buildings.

Accordingly, Madam Chair, I cannot support the amendment because it is silent on the issue of profit. There must not only be some encouragement to improve the housing stock of this province, but also some incentive to encourage people to build the units, because obviously in some areas there is a shortage of units. Thank you, Madam Chair.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, I would like to give you the opportunity again. Do you want to place an amendment to the amendment?

Mr Tilson: We will be putting forward an amendment, as we have distributed to the members of the committee, but I have indicated that I cannot support the Liberal amendment because of its absence of encouraging the whole subject of profit, which relates to the issue of proper maintenance, which relates to the whole issue of renovations and which relates to the whole issue of construction of new units in this province.

Hon Ms Gigantes: Without getting into another prolonged discussion of emotive words such as "profit," could I remind Mr Tilson and also Ms Poole that I tabled with the committee last week a projection of the amount of moneys available to landlords in this province within the proposed 55% plus 2% formula for the guideline, and that over a 10-year period we would be looking at the availability of $8.5 billion to landlords in this province for necessary maintenance, capital works, and, I am sure, a little elbow room for profit.

I could also draw to the attention of the committee the sheet which we have tabled with the clerk. This sheet gives figures which represent our projections of what the effective guidelines would be under the proposed guideline, as in the bill. You will find that labelled "RCA": 55% BOCI plus 2%; under the Liberal proposal, 60% of BOCI plus 2%; and under the four-part amendment which the Conservatives proposed to move, it is modified according to whether it is being applied to a small building, a large building, a pre-1976 or a post-1976 constructed building.

Ministry staff have worked out what that would mean in terms of the real guideline, given the assumptions at the bottom of the sheet which has been tabled. These assumptions are that the inflation rate for all categories included in BOCI would be 3.7%, which is an estimate; that there would be a 9% increase in municipal taxes, which may be low or high; that there would be a 15% increase in electricity rates, which I think was the figure the committee indicated earlier in discussion it would like to see included in projections. We have included an assumption of a 5.1% increase in earnings for staff in apartment buildings—maintenance staff, superintendents and so on—which again may be high, given the current economic forecasts.

However, what it leads to over a projected four-year period is a range of rates of effective guideline to be applied. For example, in 1992, under the Conservative amendment, the guideline for a small building built before 1976 would be 9.2%. Presumably we would also be dealing with an application possibility above guideline, right down to the projection which we have made for the proposal included in the bill, which would be 5.3%, effective 1992.

I hope that for members of the committee this will be a helpful summary of the best estimates we can make, given the assumptions, some of which we have been asked to include by the committee, of what the realities of these various proposals for amendment to the guideline would be.

1040

Ms Poole: I thank the minister for providing those projections. They are quite helpful to us.

To go back to Mr Tilson's comments about the amendment and why he had problems supporting it, there are two ways one can approach the business of providing amendments to legislation. One is to try to make them acceptable to all parties, particularly acceptable to the government, as it has the majority of members on this committee and if the government does not accept an amendment it is virtually impossible for it to pass. That is one attitude.

The other one is that you can put forward amendments for political reasons. You can put forward an amendment so that you have an opportunity to make statements, so that you have an opportunity to make accusations, so that you have an opportunity to expose what you believe another party's viewpoints fail to relate.

I am sorry, and I apologize to Mr Tilson if he thinks this is an inadequate way to look at it, but I am a very pragmatic person. I want to improve the legislation and I want to—

Mr Tilson: You support the bill.

Ms Poole: Mr Tilson, I do not want to get into a debate about support of the bill.

Mr Tilson: The record shows it, Madam Chair.

Ms Poole: The Liberal caucus has not decided to support this bill. Whether we accept it will depend on what type of amendments are accepted by the government and what improvements are made to this legislation.

Mr Tilson: You supported Bill 4 and you are supporting this one.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, I really do think that remark is somewhat presumptuous. We do not know yet for sure how the Liberals will vote on this bill.

Ms Poole: Not only is the remark inappropriate, Madam Chair, and I certainly agree with you, but the comment is also inaccurate, since the Liberal caucus voted against Bill 4 on third and final reading.

I have taken the pragmatic viewpoint. I know that if the word "profit" were in this amendment, there is no way the government would consider it, let alone accept it. Perhaps the likelihood of the government considering it or accepting it is very minimal in any case, but I have never been of the viewpoint that if you cannot have the whole loaf, you will not accept the half loaf. If the half loaf is going to keep your kids from starving, you damned well accept it. So when you get an amendment that you think is going to make a difference, and if you know it has no way of passing if you include a word which is going to antagonize the majority of the committee, then to me, when it comes down to pragmatics, you do not include the word, not if you want to make something workable and not if you want to make some real significant changes to the legislation.

I am not prepared to accept an amendment to this amendment, friendly or otherwise, that would include "profit." I am trying to propose a solution and, to my way of thinking, if I include that word "profit," there is no opportunity to even discuss a solution.

The Acting Chair (Mrs Y. O'Neill): Is there any further debate on the amendment to subsection 12(1)?

Mrs Marland: I do not want to get into the same box I got into with one of our own PC amendments last week. If this amendment should carry, is the Chair still going to accept my following amendment?

The Acting Chair (Mrs Y. O'Neill): I think I will, yes.

Mrs Marland: Well, then, I will save my comments, to place on the record my opinion as to the profit aspect of ownership of property, for my amendment.

The Acting Chair (Mrs Y. O'Neill): Thank you, Mrs Marland.

The committee divided on Ms Poole's motion, which was negatived on the following vote:

Ayes–2

Daigeler, Poole.

Nays–8

Abel, Gigantes, Harrington, Mammoliti, Marchese, Marland, Tilson, Winninger.

The Acting Chair (Mrs Y. O'Neill): I presume now, Mrs Marland, you would like to present your amendment.

Mrs Marland: Yes. That was quite historic; we were voting with the government members. What a nice way to start the day.

Mr Mammoliti: For a different reason, though.

The Acting Chair (Mrs Y. O'Neill): Mrs Marland moves that paragraph 4 of subsection 12(1) of Bill 121, as reprinted to show the amendments proposed by the minister, be struck out and the following substituted:

"4. The part of the guideline allocated to profit is equal to 1%.

"5. Subject to paragraph 6, the guideline for a rental unit is the sum of the part of the guideline allocated to operating costs for that rental unit, the part of the guideline allocated to capital expenditures and the part of the guideline allocated to profit.

"6. If any part of the residential complex was occupied before the 1st day of January, 1976 as a rental unit, the guideline shall be increased by 2%."

Ms Poole: On a point of clarification, Madam Chair: We are dealing with the PC motion, subsection 12(1), paragraphs 4, 5 and 6. In my book, and I do not know if this was covered while I was away several weeks ago, I also have one subsection 12(1), paragraph 1. Has that been dealt with?

The Acting Chair (Mrs Y. O'Neill): I am sorry, I will have to ask because I was not present either.

Hon Ms Gigantes: Yes, it has. The copy I have of the Conservative motion refers to subsection 12(1), paragraphs 5, 6 and 7, so the numbers I have are quite different when there is reference made in the second paragraph.

The Acting Chair (Mrs Y. O'Neill): There is an explanation, apparently, from legislative counsel.

Ms Baldwin: I believe the Progressive Conservative motion was redone in light of the reprinted bill, so the paragraph numbers changed. The version read out says, "as reprinted to show the amendments proposed by the minister." Perhaps the motion you have in front of you does not say that.

Hon Ms Gigantes: That is correct. We are dealing with paragraphs 4, 5 and 6, then?

Ms Baldwin: That is correct.

The Acting Chair (Mrs Y. O'Neill): Is everybody clear now on what we are—

Hon Ms Gigantes: The reference in the second numbered section would be to paragraph 6.

The Acting Chair (Mrs Y. O'Neill): All right. Mrs Marland, if you would like to speak to your amendment.

1050

Mrs Marland: I think the Hansard from last week is just coming into the room and I wanted to quote from that in making my comments on this amendment. We ended up last Thursday afternoon with a rather incredible statement by Mr Mammoliti.

Mr Tilson: What, again?

Mrs Marland: I guess I will look up his reference when someone is speaking so that I can quote him accurately so he will not be too disturbed. In essence, what Mr Mammoliti said last week was that he did not care about landlords.

Mr Tilson: Probably allergic to them.

Mrs Marland: I did write down some of his words. He said he was not worried if landlords "had to pay out of their pockets."

In essence, in speaking to my amendment, I want to express that I am worried about landlords because I am worried about tenants in this province. Is your riding Yorkview?

Mr Mammoliti: It certainly is. They are all watching you right now.

Mrs Marland: I hope so. I particularly hope they are watching the member for Yorkview, because the people who are dependent on rental accommodation in this province should not be subjected to rental accommodation deteriorating because this socialist government in Ontario is penalizing the people who own property they depend on renting. Tragically, what is happening with this legislation is very well manifested, I think, by the comments by the member for Yorkview last week when he says that landlords should pay out of their pockets. I wonder if this same member thinks that the man who sells groceries on the street corner should subsidize the cost of those groceries and pay out of his pocket in order to keep the cost of those groceries down?

The two most important elements of survival in this province today are food and shelter. In my opinion, the people who live in rental accommodation have a right as tenants to live in buildings that are maintained, that are clean, with carpeted areas that are replaced with new carpets when it is necessary, where walls are painted and redecorated and where all general maintenance is done. For this socialist government to be so limiting, as this legislation is, on what landlords are going to have to spend to maintain their buildings and yet be limited in the amount of money they can have in an annual rent increase, let alone allowing for any profit on their investment, is unbelievable.

First of all, I should explain that the explanation of this amendment is that the first and second sections of the amendment allow for the addition to the guideline increase of 1% for the purpose of profit, and that was allowed in Bill 51.

Bill 51 was not even a Conservative government piece of legislation, it was Liberal legislation, and I would be anticipating that the Liberal members of this committee will support this amendment if only for the fact that they still believe in their own legislation.

The third section of this amendment allows for an extra 2% under the guideline increase for those buildings deemed, by nature of age prior to 1976, to require additional capital for routine maintenance and repair.

There we get back to the classic comments of the Minister for Housing last week, when she said it did not cost any more to operate an old building than a new building. Of course, we do not agree with the minister on that point. Obviously an older building does cost more to maintain sometimes because of the pure design and function of it. New buildings have all kinds of elements in their design from an architectural standpoint that make them easier to function in, easier for people to move in, and therefore in the general areas the maintenance costs would be less.

Let's look at this question of having 1% for profit. How many of you, I would challenge, would even think of making an investment with your own hard-earned money without getting a profit return on it? How many of you are willing to set aside your legislative incomes and provide housing for people in this province? That is what you are asking the landlords of this province to do. You are asking them to invest in rental property. Tragically, for most of them who have already invested, it is not even a choice any longer. Not only are you not going to allow them to have any return on their investment, they are not even able to sell their buildings, because who would want to buy a rental income property with this kind of draconian legislation?

We are looking at the question of who provides rental housing for the people in this province. This socialist

government seems to think it is okay for the existing landlords to do that. We do not happen to think that. Moreover, we think about how unjust it is to expect landlords to have made a capital investment in rental property and not now be able to realize a profit on their investment. If they had left their money in the bank, they could probably get anywhere from 10%, 12%, 14% on second mortgages, etc.

Mr Winninger is shaking his head. I am not talking about interest on a daily savings account, I am talking about investments through a financial lender.

We are saying to landlords, "We're not going to allow you to make any profit at all on your investment." If your answer is, "They've already made a profit because if they bought their building 10, 20 or even five years ago, they could sell it today at a profit," the fact is if they bought their building probably within the last five years, they cannot sell it at a profit. If they bought it 15 or 20 years ago, yes, they could sell it for more than they paid for it. I hope they could, because they have set aside whatever those thousands and thousands of dollars were, in some cases perhaps upwards of $1 million—and we are looking at the small landlord—and over that period of time they are entitled to have had an appreciation on their investment.

The travesty is that this legislation is saying to the landlords, "We don't believe you need to have profit under this section." The worst part is that we are also saying it to the tenants, for whom I care equally—I will have the record show—as I care for the landlords, because I believe the people in this province are entitled to live in good-quality rental accommodation in return for the hard-earned money they pay in rent.

I think most of you on this committee had the benefit of the public hearings this summer when you heard from landlords and, I understand, even from some tenants who agreed with landlords. The position they are going to be in is that they are not going to be able to maintain those buildings to the level they have in the past.

The irony is that I do not think any one of you can go out today and buy anything cheaper, or possibly even at the same price, as you did a year or two ago. I do not know how many of the men on this committee shop for cleaning materials for the home, but none of those products costs the same as it did a year or two ago.

What we are saying to these tenants is, "Your buildings are going to get just as dirty, the wear and tear on them is going to be just as much, they are going to need the same kind of upkeep, maintenance and, in some cases, necessary renovation, even if it is paint." Very recently I was shocked at the price of paint.

So whatever it is that has to be done to keep the tenants' rental homes—the ambience of the environment in which they live—in good condition, this legislation is saying to the owner of that property, "You can't have an increase to cover the cost of inflation on the products and services to service that building, whether you are talking about products in terms of cleaning and painting or whether you are talking about labour in terms of services."

1100

This amendment is asking for a paltry 1% for the purpose of profit. It is almost embarrassing to ask for only 1%, but I would think that was something even this government might be able to recognize as a necessity. Even this government, which thinks it is the job of government and the rich to provide housing for everybody else in the province, might consider 1%. That is why we kept it at 1%. Frankly, I think 2% for older buildings speaks for itself.

Perhaps while someone else is speaking, I can refer to the record I wanted to comment on from last week.

Mr Mammoliti: I feel compelled to respond to Mrs Marland's comments about my comments last week. I will try to do this as calmly as possible. I did make those comments, but Mrs Marland neglected to mention why. I was responding to her comments last week in reference to investment. She believes this government is taking the right away from the investors and that they are not going to make the big profit they have been so used to in the past. I am glad I made those comments, and my constituents are glad I made those comments. I made them because I believe it.

An investment is an investment; I do not disagree with an investment. I disagree with you and your ideology. That you should be asking and kicking for more money and more profit is what I disagree with, and that is what I said last week. I do not agree that you should be kicking and punching the tenants for more and more money. I do not know if I said it that way or with those words—I do not have the Hansard in front of me—but that is what I meant.

I also said I believe the 3% is enough. I do not mind them dishing out a little bit of their money. I have said that consistently. If it is an investment, they will not mind dishing out some of their own money, will they?

You brought up an example earlier. I am going to give you an example. When I take out bonds or RRSPs, I do not go out in the street and start kicking and punching people for money because I am making my investment, do I? When I go out and buy a car, and if I consider it an investment—which it is not, though if it is an old car, perhaps you could make money on it—I do not go out in the street and start kicking and punching people and saying, "I have money to invest, so I want more money from you." That is what you expect. It is the same thing.

There is an example I would like to use in this particular case. I think we could relate it to this. I will bring you back to Robin Hood and the days of his merry men. Back then, there were the kings, the barons and the peasants. Thanks to your government and the Liberal government, things have not changed. There are still kings, there are still barons and there are still peasants. You still want to kick and punch those peasants, and I am not going to put up with it.

Mr Tilson: Off with their heads.

Mr Mammoliti: Off with their heads, exactly. That is the type of attitude that has to stop. Frankly, as a part of this government, I want it to stop. In the House we consistently hear from you: "What are you doing about the drug problem? What are you doing about the welfare problem? What are you doing about that big social problem that exists out there?" With your attitude, these problems are

only going to continue existing. By kicking and punching people for money and saying, "We want more out of you because I'm rich and I want more," you are only going to get those problems. I am going to try to stop that. If that means I have to say things like, "You can only make $10 and not $12," then that is what I am going to do. Yes, that is what I am going to do and that is what I mean by that.

When you talk about caring for tenants, that is absolute nonsense. I cannot agree with that. I cannot agree with that at all, not with your comments, not with your only thought being profit. I cannot agree with that.

Mrs Marland: Whether this member is aware or not, in our rules of order it is incorrect to impute motives to what another person is saying or, as a result of what my comments are, impute motives to me or what I am thinking. I would appreciate the Chair reminding the member of that.

Mr Tilson: You are a credit to the government, George.

Mr Mammoliti: I am a credit to myself and I am a credit to Yorkview.

The Acting Chair (Mrs Y. O'Neill): I think we will take the warning. Mr Mammoliti, I presume you are summing up.

Mr Mammoliti: I am summing up. I do not want to delay the proceedings. I want to get this bill through as quickly as possible, believe me. I wanted to comment on her talking about caring for tenants. I do not believe that. Maybe we can relate better it if I give you another example. I used to be a doorman at one of the rowdier bars in Toronto. I worked there for five years. There were some good doormen and some bad doormen. I considered myself a good doorman and that certainly helped me with my job today, especially in the anti-drug strategy.

I would say that she cares as much as those bad doormen, in that we used to say we cared for the person who had too much to drink. The good ones would say, "I'll put you into a cab" or "I'll get you counselling if you need it" and that sort of thing, whereas the bad ones were saying, "I care about you," and they would throw them into a telephone booth or throw them through a window. "I care about you so much that I'm going to boot your butt right out of here. This is how much I care for you." This is exactly what they are saying. They are saying, "I care for the tenants"—

The Acting Speaker (Mrs Y. O'Neill): You are making judgements, Mr Mammoliti, and I really do not think there is a need to do that.

Hon Ms Gigantes: That is what he is paid for. He is paid to make judgements.

The Acting Speaker (Mrs Y. O'Neill): He is making judgements about what other people are saying.

Mr Mammoliti: It is an example to which people could better relate her comments.

Mrs Marland: He is not paid to impute motives to another member.

The Acting Chair (Mrs Y. O'Neill): I think we should try to relate our comments to—

Mr Mammoliti: Madam Chair, I will. Just to finish off, it is the same thing. On the one hand you say you care and on the other hand you have got a fist out and you are ready to punch or kick anybody for more money. I say that is not the solution. Our bill is not perfect and we have said that from day one. The minister has said that. We are going to learn by our mistakes perhaps. Perhaps more amendments will be necessary later, but we have to think of a way to protect the peasants I am talking about. Remember Robin Hood and the merry men and the peasants they wanted to kick.

1110

Mr Tilson: Little John.

Mr Mammoliti: Yes, Little John, and of course Friar Tuck, who had the drinking problem.

The Acting Speaker (Mrs Y. O'Neill): I think we should really try to talk to the bill.

Mr Mammoliti: I will just wrap up. I get emotional when we talk about caring for tenants, because I do care for tenants. When I make my comments, I assure you they are for the tenants' best. When and if my government is wrong at any time, I tell it that as well. I have not been ashamed to do that. I have not been ashamed to say how I feel.

Hon Ms Gigantes: I will be quite brief. It is obvious that this is one of the items in this legislation that brings us down to the very essential questions of what the legislation is about. I will draw to the attention of committee members the projection that was on the sheet we tabled, dealing with the various proposals from each party about how the guideline be constructed within this legislation and the assumption within that set of figures for a 3.7% inflation rate for the period 1993 to 1995. Next year, as far as I know, economists and various financial institutions, you name it, seem to be suggesting that we will be looking at a general inflation rate of about 3%. Certainly, I do not think people are expecting most wage increases to be very high.

If we look at the Conservative amendment before us now and what it would mean for the basic guideline for rent increases in 1993, which will be the first year the guideline under this legislation will become operative, because in 1992 we will be dealing with the old guideline—

Ms Poole: On a point of clarification, Madam Chair: When I looked at the projections of the guideline provided by the ministry, I was having a little difficulty associating them with the Conservative amendment, because according to the projections of the ministry, the PC amendment is separated into four different possibilities, basically taking the ministry's original position that the guideline was to be different, depending on the size of the building. Also they have a component in that it would be different considering whether it was pre-1976 or post-1976.

It may be a deficiency in my amendment package or it may be something that was tabled when I was away two weeks ago, but is it true that part of the PC amendment is that there be these four separations? I do not see that in the amendment before us. Under subsection 12(1) I see no reference to separating into small and large buildings. I wonder if you could clarify that.

The Acting Chair (Mrs Y. O'Neill): Mrs Marland, do you want to respond to the reflection of this projection of your amendment?

Hon Ms Gigantes: Madam Chair, could I perhaps ask Colleen Parrish from the ministry to speak to the question of the projection itself?

Ms Parrish: The reason we did that—as you will see, we did this on November 6, 1991—was that it was unclear whether the amendment agreed with the amendments made in the printed version or whether it was saying that the two guideline distinctions should be continued. Remember, we had that earlier discussion about whether this was an amendment to paragraphs 5, 6 and 7 or whether this was an amendment to paragraphs 4, 5 and 6. As tabled, technically it still includes that differential. I do not know what the intention was, but technically, as tabled, that is what it said, so that is why we did the forecast. If they are moving to one guideline, no differential between small and large buildings, then essentially instead of four guidelines there would be two, pre- and post-1976.

Ms Poole: And they would be based on 60%, not two thirds and one half?

The Acting Chair (Mrs Y. O'Neill): Excuse me. I think it is necessary that Mrs Marland respond to see how reflective she feels this is to her amendment as presented.

Mrs Marland: This sheet that was left at our desks this morning, I assume prepared by the government—

The Acting Chair (Mrs Y. O'Neill): It was prepared by the Ministry of Housing.

Ms Poole: Was this tabled on November 6?

Hon Ms Gigantes: No, it was tabled this morning.

Mr Tilson: We don't even know if it is accurate.

Ms Poole: I think that is the problem. It was prepared on November 6 and yet it was tabled a month later with inaccurate information.

The Acting Chair (Mrs Y. O'Neill): If I may recap what has happened in the last five minutes, Mrs Marland, I think she would like to know if this is reflective of your intent this morning in your amendment, because the legislation we were dealing with on November 6 was in a different form than the legislation we are dealing with this morning.

Hon Ms Gigantes: On a point of order, Madam Chair: I learn now that this was tabled on November 6.

The Acting Chair (Mrs Y. O'Neill): I guess none of us here this morning was around that day.

Ms Parrish: It was attached to this long thing.

Mr Tilson: A long thing?

Ms Poole: We don't read long things.

The Acting Chair (Mrs Y. O'Neill): All right, we have this now. I think we have to clarify right now. I presume the PC members are the only ones who can tell us whether this is reflective of the intent of their amendment as we have it here this morning. We can stand down your amendment if you want to.

Mrs Marland: No, I cannot comment on this because I do not know the accuracy of these figures that are the basis for this. I did not prepare it.

The Acting Chair (Mrs Y. O'Neill): I think there is a fundamental question about what your amendment really means and what Ms Parrish was trying to respond to in this chart. Perhaps, Ms Parrish, you could place a question very directly to Mrs Marland so she would know the basis upon which you base this and how you interpret it applying this morning.

Ms Parrish: I think the issue is actually a fairly straightforward issue, Mrs Marland. I guess what people want to know is whether the basis of the guideline you are proposing in your amendment is essentially two thirds of the operating index, or BOCI, plus 3% or 5%, depending on whether they are pre- or post-1976 buildings, or whether your proposal is that it would be one half of BOCI. I assume it is likely that it is two thirds of BOCI, which is the proposal, but it is not clear, because the government's amendment would be 55% of BOCI. That, I guess, is what people are wondering about.

It is clear that your amendment says that if it is a small, newer building, it would be 3% plus the operating index component, and if it is an older building, it would be 5%. I guess the issue people are asking is, what is the other part? Is it two thirds of BOCI, one half of BOCI, 55% or 60%, which I think are the possibilities there.

Mrs Marland: Madam Chair, I am not clear where Ms Parrish gets a reference to a small complex.

Ms Poole: Madam Chair, I am getting one of my fits of helpfulness again.

Mrs Marland: Where did you get that?

Interjections.

The Acting Chair (Mrs Y. O'Neill): We have to have one person speaking at a time. I think Mrs Marland and Ms Parrish have the floor. Would you like to have the intervention from Ms Poole she thinks will be helpful?

Mr Tilson: It's risky.

Ms Poole: It is very risky. I think part of the problem is that Mrs Marland was not the critic at the time we went through this long, exhaustive procedure. It is extremely difficult to come up to speed quickly on a bill this complex. Originally, when the legislation was first introduced, the government had a section which said instead of having one guideline per year we will have two guidelines: if you are a small building, six and under, we will have one guideline; if you are a big building, seven or over, we will have another guideline. The confusion has arisen because when you tabled your amendment it was based on what the government had in its original legislation.

The Acting Chair (Mrs Y. O'Neill): That is correct.

1120

Ms Poole: Now we are in the position where the government has amended that and said, "No, we want one guideline and it's based on 55%."

Mr Tilson: That was then; this is now.

Ms Poole: That was then; this is now. This chart has assumed that the Conservative amendment still wants all these differentiations, which would now make four.

The Acting Chair (Mrs Y. O'Neill): Mrs Marland, I think the question you have to help us with this morning is, do you have a differentiation in your amendment regarding the size of buildings?

Mrs Marland: Obviously I would not have, now that the government has decided there is not to be any difference between the size of buildings as it pertains to this bill.

The Acting Chair (Mrs Y. O'Neill): So your differentiation is strictly on age.

Mrs Marland: Well, it is exactly what I read. I mean, if you read the words—

The Acting Chair (Mrs Y. O'Neill): I am just trying to clarify for everybody in the room, because I would say this is a point of great—

Mrs Marland: I am not referring to size of buildings. I am simply referring to age in the last paragraph.

Mr Tilson: On a point of order, Madam Chair: I think the confusion arose because of this sheet of paper that has been presented this morning, which we have never seen before.

The Acting Chair (Mrs Y. O'Neill): Unfortunately, that has been discounted by the person who presented it on November 6 as part of a bigger package. I cannot verify that, but someone else has said they did that.

Mr Tilson: I think this was prepared before they made their changes.

The Acting Chair (Mrs Y. O'Neill): I do not know exactly when the changes were made. Madam Minister does still have the floor. She is using now a piece of paper that does not seem to be reflective of the PC motion. Perhaps she would like to speak to that.

Hon Ms Gigantes: I will not address that directly at the moment, Madam Chair. The points I was trying to make were really relatively simple. One is that what we are dealing with is what the guideline is. The guideline we are proposing is a guideline which produces certain results. The guideline which the Liberals proposed, and which has been defeated, would produce certain other results, which would have been a higher guideline and a guideline which would have worked in a different way.

What is now before us is a Conservative proposal which would produce a higher guideline still, and would also incorporate the notion of profit and separate that out within the guideline.

While we have had a lot of emotional and deeply felt words exchanged on this subject, I think what we are looking for is a balance. We do not expect that most tenants are going to be receiving wage increases next year in even the range of the guideline which will be in effect next year, which is the 6% guideline under the RRRA, as determined earlier this fall under the legislation. We are looking for a balance between what tenants can afford and what landlords are going to need to be able to operate their buildings and make sure that the buildings are maintained and that necessary renovations are done in a reasonable way.

We have also made provision within the legislation where, when landlords have a need for eligible capital expenditures over guideline, there is room for application by landlords to receive a higher rent up to 3% over guideline. All in all, we feel that these provisions are a balanced and reasonable attempt to protect the interests of tenants and provide landlords with those moneys necessary for repair.

Certainly, on the basis of what we know about landlords' applications for above-guideline increases in times past, these obviously provide them with room for profit. We also know that profit for landlords does not just come out of guideline increases. Profits for landlords come out of the increase in the value of the properties themselves over time and, on the whole, landlords in this province have now managed to survive through 15 years of rent regulation.

This bill proposes what we think is a better way of regulating rents. What we are dealing with here is simply the issue of what the guideline is.

I think Ms Parrish would be prepared to provide us with some updates on the estimates of what the guidelines under this particular amendment would be. Perhaps I could ask her for that at this stage and we could certainly produce this in written form if necessary, but perhaps people would just like to hear it.

Ms Parrish: We are assuming here a 55% basis for the guideline, as in the reprinted bill, plus a distinction between pre-1976 and post-1976 buildings. For 1992, the guideline would provide for a 6.6% increase for post-1976 buildings and 8.3% for pre-1976 buildings, thus 6.6% for newer buildings and 8.3% for older buildings. In 1993, the respective increases are 6.7% for newer buildings and 8.7% for older buildings; in 1994, 6.9% and 8.9%; and in 1995, 6.8% and 8.8%.

Mrs Marland: Could I have a clarification on those figures? Does that mean that we are sitting here today deciding what it will be for the next four years?

Hon Ms Gigantes: As you have seen from the sheet which was tabled, assumptions have been included in the estimates we have provided about what would be the effective guideline under the government's proposal. You will see those assumptions listed at the bottom of the page. One can question the assumptions, but on the whole, they are probably no more unreasonable than any others we might make in a mix of assumptions on the components of the guideline.

Mrs Marland: What about the assumption that your government was going to have a $9.7-billion deficit this year and we now know that this is probably going to be 50% out. How can we sit here and assume, knowing how much worse the situation was this year in your own assumptions as a government in planning for finances.

The Acting Chair (Mrs Y. O'Neill): Mrs Marland, you are on the speaking list, but you are not next in order.

Hon Ms Gigantes: If I could reply to that, there is nothing hidden about the estimates you have just heard. All that Ms Parrish has done is to take the reprinted bill, which you are proposing to amend, use the 55% of the building operating cost index as the base, together with the assumptions listed at the bottom of the sheet recirculated this morning, and recalculate what the effect of your amendment would be on the guideline. That is how the figures are arrived at.

The Acting Chair (Mrs Y. O'Neill): Would the committee like to have those figures in writing if Ms Parrish could present them? All right. Now we have a speaking list. Ms Poole. Have you completed your statements Madam Minister?

Hon Ms Gigantes: Yes, for the moment.

Ms Poole: My list of comments has extended considerably from when I first put up my hand. That is one of the things, when you have a list of speakers, you get to comment on what each person has said.

First, the minister has said they are trying to find a better way, a balanced way. As a member who has been extremely active with tenants for the last four years in my riding, and as somebody who has 40,000 tenants in her riding and who is daily in communication with them, I can say that over the last four years I have not received, nor has my staff, one complaint about the guideline and how it was working.

For the most part, it was under inflation and it was not an issue. We are now making it an issue, and the only reason I can see making it an issue is for political points. I do not like that, because if something is seen to be problematic, I can see changing it. Just as Mr Mammoliti said, "Our bill is not perfect," we have been saying that. By the way, when he said that, the reaction from the NDP caucus was quite interesting. I saw four heads immediately go over to Mr Mammoliti saying, "George, what are you saying?"

It is true their legislation is far from perfect. But the problem is that you are trying to fix something that was not broken, that was working and that was quite reflective of inflation. You are changing it without empirical evidence that it should be changed, or that there is a reason to change it. If you do not have any evidence, there is no logic for changing it. I still have not heard a good reason to change it if it is working.

1130

Hon Ms Gigantes: On a point of order, Madam Chair: Is the speaker supporting the Conservative amendment or not?

The Acting Chair (Mrs Y. O'Neill): I do not think that is a point of order.

Hon Ms Gigantes: I think it is. One has to get a vague sense of whether she is for or against.

The Acting Chair (Mrs Y. O'Neill): I do not think so. I think that comes with the vote. I really find that kind of confusing.

Ms Poole: Thank you for your ruling because it was a totally irrelevant comment. I think you can be assured that I will be making some direct comments in that regard.

The irony is that when Mr Mammoliti was talking, he said: "It's an investment and if it's investment, the person should not mind kicking in some money. That's the nature of an investment." But what Mr Mammoliti and his government do not seem to comprehend is how an investment works. An investment works because a person expects a return on his money. That is the idea, George.

Mr Mammoliti: They are supposed to tell us how much they want, though.

Ms Poole: If you have an investment where you are not seeing a return on your money, and there is no projected return, you generally do not put more money into it. That is the way investment works. Certainly, if you are a good investor, that is the way it works.

Mr Mammoliti: On a point of order, Madam Chair: I have not heard anybody come forward, even though we have asked the questions, to tell us how much they want. So in terms of your argument there, nobody has told us how much they are ready to make.

The Acting Chair (Mrs Y. O'Neill): Mr Mammoliti, if you want to be added to the speaking list, I will accept your name, but it is not on the list at the moment. Continue, Ms Poole, please.

Ms Poole: I think an interesting commentary on the government's attitude towards investment and towards profit was in their Housing Framework for Ontario document. If I am not mistaken, although I have not seen this for a couple of months, I believe it was on page 55. When I read it, I thought I must be in a different galaxy. In black and white in this document was the statement, "Some landlords are in the business because they want to have a return on their investment." I thought this interesting. Some landlords must be in the business because they do not want any profit; they just like working hard and not making any money. They are philanthropists and they do this out of the goodness of their heart, and this is why they are in the business.

I can tell you, anybody in the business of being a grocer, a dry-cleaner or any other business is in it because they want to see something back for the effort, the initiative, the risk and everything else they put in.

Mr Mammoliti: Nobody has told us how much they want back.

The Acting Chair (Mrs Y. O'Neill): Mr Mammoliti, please.

Mr Mammoliti: How many times have we asked the question in the hearings?

The Acting Chair (Mrs Y. O'Neill): Mr Mammoliti, Ms Poole is speaking.

Mr Mammoliti: How many landlords refused to answer the question? You used that as an argument.

Ms Poole: Mr Mammoliti continually interjects and says nobody is telling him. If you read the Conservative amendment, Mr Mammoliti, the Conservative amendment tells you, 1% in the guideline. It is very specific.

Mr Mammoliti: We are talking about the landlords. I am telling you that in front of us, they did not tell us how much they wanted to make. We asked the question consistently.

The Acting Chair (Mrs Y. O'Neill): Mr Mammoliti, you have repeated this three times. I think we know what you are saying. Ms Poole has the floor.

Ms Poole: Mr Mammoliti obviously either has not read or does not comprehend the amendment. The Conservative amendment very specifically says that 1% should be built into the guideline for profit. I think that is very clear.

What we are debating right now is the Conservative motion that refers to the profit.

I found it very interesting that Fair Rental Policy Organization put out a survey, I think it was six or eight weeks ago. The first question I asked was "Who did the survey?" because surveys can be done by anyone and if the questions they ask and the assumptions they make are not valid, then the survey has no validity. I established that the survey was done by a reputable firm.

I was looking through the survey and there was one point that boggled my mind. This was a survey of tenants and how they felt about the rental industry. They asked the question, "Do you believe landlords should be entitled to make a profit?" A vast majority of the tenants said "Yes, they should be." Then, an open-ended question, "What do you think this profit should be?" The tenants said 15%. I looked at this and I said, "This is impossible. Tenants are saying the landlords should be making a 15% profit when the only document we have which indicates what type of profit margin there is in the housing industry, the Royal Lepage study, which is several years old, indicates that the profit margin landlords are making is less than half of that.

Then I was talking to our Liberal researcher, who is a tenant himself. He said, "It seems to me very logical that tenants would say this, because," he said, "most tenants think landlords make 40% and 50% and 60% profit." When I thought about it, it is true. Tenants as a group are not aware that 15% to 30% in most cases is going to property taxes. The single most expensive item in their rent is property taxes, yet if you asked—

Hon Ms Gigantes: It is more like 40% now.

Ms Poole: It depends on the scenario. It can be as high as 40% or it can be down at 20%.

Mr Mammoliti: On a point of privilege, Madam Chair: I would just like to know what those tenants meant by the profit.

The Acting Chair (Mrs Y. O'Neill): That is not a point of privilege by any stretch of the imagination, Mr Mammoliti.

Mr Mammoliti: Was it a yearly profit they were anticipating, or was it an overall profit for the building when they decide to sell 40 years later?

The Acting Chair (Mrs Y. O'Neill): That is not a point of privilege, Mr Mammoliti. Ms Poole, please.

Ms Poole: I sincerely doubt that when tenants had this survey and were answering that question that they looked at what a landlord should earn as profit over a 40-year period, as Mr Mammoliti has suggested, and came up with 15%. Tenants are much fairer and much more broad-minded than to say landlords should make a third of a per cent profit per year on a building for all their investment and hard work.

Mr Mammoliti: You are assuming. Answer the question.

Ms Poole: Madam Chair, I wish Mr Mammoliti would refrain from interrupting constantly. It is extremely distracting and it is extending the debate.

The Acting Chair (Mrs Y. O'Neill): Ms Poole, please direct your comments to the Chair.

Mrs Marland: On a point of order, Madam Chair: In the six years I have been here I have not made this comment, but I notice that when the member for Yorkview speaks, his microphone automatically goes on. I think the rules are that the microphone does not go on until the Chair recognizes the speaker has the floor.

Mr Mammoliti: You are going to pick on everybody else now.

The Acting Chair (Mrs Y. O'Neill): That is the rule in the House, I presume. Most rules of the House are carried into committee, so we will take that under advisement. Ms Poole, please.

Ms Poole: The basic problem is that most tenants are unaware of the property tax component. They think that the 25% or 30% or, as the minister says, 40% of their rent going to property taxes, in some cases, is profit, and it is not true. So what we have here is a situation where tenants believe that the profit the landlords are making is an astronomical profit when in many cases it is not true. In some cases, particularly where a landlord has had a building for an extensive period of time, where there is no mortgage, no carrying costs, yes, that landlord should be making, I would not say a substantial profit, but certainly a comfortable profit, what we would probably still say is a reasonable profit.

But I know of many instances where that is not occurring, and the landlord is either not making any profit or the profit he makes is minimal at best. I think there is a recognition that any time you make an investment and you build up a business there is going to be a certain period over which you will not realize a profit. It is part of the investment cycle that there is a period over which you accept losses because you are building up your equity.

But what happens in a province where the buildings are devalued, not only by the recession, which is a given, but also because of a piece of government legislation, Bill 4, which the financial institutions' expert testimony has told us has devalued buildings? It is not a matter of expecting to sustain a loss for a few years until the hard work can pay off and you make a profit. It is a case of these buildings being worth substantially less than the original investment that was put in. Profit is totally discontinued.

So when there is this constant attack on the Conservative amendment for the profit angle, I have a lot of problems with some of the assumptions that are being made by the NDP members about the amount of profit that is going into the housing sector, and about the PC amendment itself and your understanding of it.

1140

That being said, there are several parts of the PC amendment that I think deserve discussion. One I think we have covered to a certain extent in our previous discussion about the aging housing stock. That is paragraph 6 of the Conservative amendment, which says, "If any part of the residential complex was occupied before the 1st day of January, 1976 as a rental unit, the guideline shall be increased by 2%."

I think what the Conservative motion is trying to redress is the situation where you have an older building which does cost substantially more to operate and yet there is no relief. Quite frankly I feel that the problem was dealt with in a better way in the Liberal motion. I say that not out of any particular wedding to it because it was a Liberal motion. But one of the things people said to us when they came and opposed the way the government had done this section was: "We do not want two guidelines. We do not want the confusion. We want things to be the way they were, which was fairly simple. Tenants are told once a year what the guideline is and then that is the guideline for the year."

I have a real concern when I see four different categories for a guideline, which is why I asked for clarification of what the Conservative amendment really did. If tenants are sometimes confused by rental legislation as a whole, imagine their confusion where they have to determine whether they are pre- or post-1976 and whether they are a small or large building before they know.

The Acting Chair (Mrs Y. O'Neill): In all fairness, Ms Poole, it has been stated this amendment does not refer to the size of the building. I do not think we should continue to speak to that.

Ms Poole: Thank you, Madam Chair, I will certainly take your advice and not speak to that.

My next line, I think, was going to clarify. I know you do not believe that excuse, but it really was going to clarify. Even when we come down to having two guidelines, which is basically what we did in the pre- and post-1976 formulation, I still find that problematic. The four was extremely problematic, but the two is still going to create a certain amount of confusion. I feel a more effective way to deal with it would be in the BOCI formula, to make that BOCI formula a reasonable one which would provide a cash flow for landlords in the older buildings to ensure the maintenance.

The way the Conservative motion reads now is that for newer buildings it would be 55% BOCI plus 3%, and that in older buildings it would be 55% plus 5% added on. Where this becomes particularly problematic is that if you look at older buildings, which are a significant amount of our housing stock, you are looking at an 8.3% guideline in 1992, 8.7% in 1993, 8.9% in 1994 and 8.8% in 1995.

In my opinion, these are based on quite modest assumptions of a 3.7% inflation rate and a 9% increase in municipal taxes. I personally think the latter is going to be much higher. The projected 5.1% increase in earnings is an assumption; we do not know if that will prove true. So it is possible that these guideline amounts might be significantly higher.

My feeling is that if you are talking about having a guideline that is bordering on 9% or 10%, first of all, it becomes very problematic for many tenants on the affordability issue. But second, if you add on to that capital repairs that might take place, possibly an additional 3%, it becomes a fairly significant rent increase as a base.

So while I am sympathetic to some parts of the Conservative amendment, I cannot see how we can support it, because I am not sure it is solving the problem and it is creating new problems in the way it is set out. I do want to clarify for the record, Madam Chair, that I am not saying, "Because you didn't support our amendment, we're not going to support yours." Parts of the amendment do get to the crux of the issue, but other parts of it, I think, are going to create more problems than they are purported to solve.

Mr Tilson: First of all, Minister, I will apologize. I do have this projection of the guideline. You had delivered it to us previously.

I would like to ask a couple of questions on your assumptions. The issue has been raised whether certain parts of it are relevant and certain parts of it are irrelevant.

Dealing specifically with the assumptions used in estimating guidelines for whatever format you are talking about, you talk about a 3.7% inflation rate for 1993-95 for all categories. I do not know how you can possibly do that. It is very difficult to have a crystal ball that can make that prediction. And the forecast increase of 9% in municipal taxes, that is almost impossible to predict as well. I say that really one has no control over what municipal councils do, what particular type of expenditures they get into. It is very difficult for municipal councils, particularly out in the country, where they are responsible for school board taxes, county taxes, all of those taxes which they have no power over.

Furthermore, downloading is continuing. There is no question that there will be downloading over Bill 143 if it passes, particularly in the greater Toronto area. There will be downloading with respect to certain aspects of day care. The downloading is continuing. I know the government spent much time during the last election talking about how terrible it was with all the downloading that was going on with the Liberals, but the fact of the matter is, downloading is continuing. There is no responsible way of predicting what the increase in municipal taxes will be, let alone saying it is going to be 9%.

Regarding the increase in electricity of 15.3%, I do not know how, Minister, you can make that prediction or that assumption when already we have had comments made to us with respect to hydro of up into the forties: 44%, 43%. I cannot recall, but it was certainly substantially higher than 15.3%.

Hon Ms Gigantes: Per year? Somebody suggested per year?

1150

Mr Tilson: No, the total over a three-year period of time.

Hon Ms Gigantes: Well, you will notice that this is an annual assumption over a three-year period.

Mr Tilson: That may well be. We have seen astounding increases. My point is it is going to be almost impossible to predict that type of increase.

Further, concerning the forecast 5.1% increase in earnings, I look at the minimum wage projections your government is putting forward, which will be substantially higher than a 5.1% increase.

Having heard those comments on municipal taxes, increases in utilities, increases in earnings, having heard

the contradictions your government has found yourselves in, how can you possibly make those assumptions?

The Acting Chair (Mrs Y. O'Neill): The minister first, than perhaps Ms Parrish would also like to add, since it was her chart.

Hon Ms Gigantes: Madam Chair, I no longer have my sheet in front of me. I believe it is off being corrected and reprinted and everything. Maybe I will borrow yours.

The Acting Chair (Mrs Y. O'Neill): Yes, fine.

Hon Ms Gigantes: Mr Tilson is talking about the assumptions. He has every right to question the assumptions. The fact is, the assumptions that have been used in the proposals from each of the parties are the same. So if there is a mistake in the assumptions, then that mistake is incorporated into the projections made for the government's proposal, made for the Liberals' proposal, and made for the Conservatives' proposal. What we can say from that is there is quite a range, and certainly the Conservative proposal is at the top end of that range.

If we look precisely at the inflation rate which he questions, again with reason, there is nothing scientific—

Mr Tilson: You made those assumptions.

Hon Ms Gigantes: I will get to part of that, if I may. There is nothing scientific about projections in this area. We all know that. The Treasury has made some assumptions about the annual inflation rate over the period 1993-95. We all know that can be wrong by quite a significant measure. However, again I want to underline that the assumptions we have used in this chart are the same for each proposal. So wherever the assumption is wrong, at least what we are seeing on this chart is the range of effective difference in the proposals from each of the parties.

He speaks to the question of increases in municipal taxes, and that is quite true. This projection is for 1992, so it incorporates an averaging of increases over the last three years of 8.36%, which then has been folded into the 1992 guideline under the existing legislation. Nine per cent may be low, or it may be high, because once the immediate post-election catch-up has been done in municipal tax increases, we may find them dropping down. We do not know.

Regarding the forecast 15% increase in electricity, I would like to draw Mr Tilson's attention once again—I noted this earlier when I presented this chart—to the fact that this committee asked for that assumption. We are not talking about anybody's projection of a 40% increase in electricity in one year. I think Mr Tilson has to acknowledge that. There have been some guesstimates about long-run projections over several years for electricity costs, but certainly not in that range. If we assume 15%, we have done so based on the outside projection of a multi-year increase in electricity rates. This committee read those projections as perhaps indicating a 15% increase. I firmly believe that those are too high.

Be that as it may, a 5.1% increase in earnings, as I pointed out earlier, is another unpredictable. It may be high. However, I will stress again that if it is high for one party's proposal, it is high for them all. What we arrive at is a range, and certainly there is every reason to believe that the ranges we are working at will be higher than the average rate of inflation, given each of the parties' proposals.

On top of that, and I have to stress it again, there is acknowledgement and provision in the legislation for landlords who have eligible capital requirements over the guideline to make application for those requirements.

The Acting Chair (Mrs Y. O'Neill): Ms Parrish, do you have anything to add?

Ms Parrish: No, I think the minister has really covered it, that this assumption on hydro was given by the committee and that is why we put it in. I personally do think that it is a little bit high, because we are assuming it will be 15% every year for three years. I think that is probably high. The taxes essentially come from the previous three-year average, assuming that it would be higher than the past three years. So, that is essentially where we are getting the numbers from, 3.7% comes from the long-term Treasury forecast, which is actually quite similar to the federal forecast. There is not a big deviation.

Ms Poole: Might I ask just a point of clarification?

The Acting Chair (Mrs Y. O'Neill): This is a subquestion?

Ms Poole: Yes, to Ms Parrish. Where you have said that 9% increase in municipal taxes is actually slightly higher than has been the case for the last three years, have you taken into account the enormous toll that the increasing welfare rolls and social assistance rolls and the effects of the depression—not recession—that we are now engaged in in Ontario, the effect of all these factors on the municipal tax load? The fact is that most likely 9% may be a grossly underestimated amount over this year and the ensuing two years.

The Acting Chair (Mrs Y. O'Neill): I think the minister made comments. Do you want to make further comments on that, Minister?

Hon Ms Gigantes: No. There is nothing to make us believe that 9% is the accurate figure, but it does not seem unreasonable given the immediate past and what we know of the immediate future.

Mr Tilson: I appreciate the comments that are being made. I think we have just established the faulty aspect of these assumptions—that we do not know. If we had a crystal ball as to where we are going till 1995, it would be wonderful, but we all know that there could be unforeseen events that may just cause municipal taxes and other things to skyrocket out of sight. The difficulty I have when we talk about these assumptions and the uncertainty of them, which is being admitted by the minister, is that if the government is wrong in those assumptions, the landlord will have to bear the loss because of the strictness of these guidelines. The landlord will have to bear the loss if these assumptions are incorrect. There is no question about that.

If one acknowledges that these assumptions could be wrong, could be substantially wrong, could be partially wrong, I would therefore assume that because of that someone will have to bear the loss, and it appears that is going to be the landlord. The sections you have provided subsequently will not provide for those errors. My question

for the minister is, will you perhaps consider a further amendment to allow for the errors in assumptions that the government may have made?

Hon Ms Gigantes: I am really quite amazed at what Mr Tilson is suggesting, I really am. Mr Tilson understands the basis of the building operating cost index at this stage, I hope. He knows that it reflects actual figures. It reflects the actual costs borne by those who are operating rental buildings in Ontario.

Mr Tilson: You are predicting the future, Minister. These are not actual but projected figures.

Hon Ms Gigantes: We are not setting guidelines here.

Mr Tilson: These are projected assumptions.

Hon Ms Gigantes: He understands that each year the guideline is reconstructed on the basis of the actual costs over the previous three years rolled into averages, weighted in a way that can be questioned, but the changes and the absolute figure for the guideline each year is based on actual costs.

He talks about our making mistakes in projections. The only reason we have provided projections is to show that when you put in your amendment you are whacking it to the tenants, at a rate that I do not know you were aware of when you put in the amendment.

We want to show the difference between the government proposal, the Liberal proposal and your proposal. Whatever you assume about actual costs that will be incorporated annually into the BOCI, there is going to be that range of difference: yours is going to be on the high end, ours is going to be on the low end, and the Liberals' will be in the middle range of these ranges.

I suggest to you that of all the proposals, ours most accurately reflects actual experience in the market over the last several years and what information we can garner from external sources. I am very annoyed, actually, to hear Mr Tilson suggest that we are setting guidelines by providing an estimate. We are not setting guidelines. Those guidelines, under this legislation, and he understands it, get reset every year based on actual costs.

The Acting Chair (Mrs Y. O'Neill): Mr Tilson, we are past the hour of 12 noon. As you know, we usually recess till 3:30 at this point. If you want, to, sum up in a minute or two, because I think some people want to go.

Mr Tilson: No, I would be prepared to continue at 3:30, Madam Chair.

The Acting Chair (Mrs Y. O'Neill): All right. Thank you, Mr Tilson, you will have the floor at 3:30. The second person on the speaking list will be Ms Poole.

The committee recessed at 1202.

AFTERNOON SITTING

The committee resumed at 1557.

The Acting Chair (Mr Abel): Mrs O'Neill, I believe you have a motion you would like to move?

Mrs Y. O'Neill: Yes. I hope this is according to the rules, Mr Chair, because I know we are in the middle of discussing an amendment of the PC caucus. Is it correct? There is no problem?

Clerk of the Committee: We have not resumed that discussion yet.

Mrs Y. O'Neill: What I would like to do then, Mr Chair, is offer my resignation from the steering committee of the general government committee, in that my other duties seem to have overtaken me. I would like to place in nomination for the Liberal membership on the committee the name of Ms Dianne Poole.

Ms Poole: This comes as a complete surprise to me, but I am honoured and privileged to take that position.

The Acting Chair (Mr Abel): I am sure a pleasant surprise, Ms Poole.

Ms Poole: No doubt.

The Acting Chair (Mr Abel): All those in favour? Opposed? Carried.

Motion agreed to.

Mrs Y. O'Neill: Thank you very much, Mr Chair.

Section 12:

The Acting Chair (Mr Abel): I believe that when we adjourned we were debating the PC amendment by Mrs Marland. Mr Tilson had the floor. Apparently he is not here.

Hon Ms Gigantes: Mr Chair, while we wait for Mr Tilson, could I indicate to members of the committee that we have tabled a revised projection of guidelines that would be the result of (1) the government's Rent Control Act amendment, (2) the Liberal amendment on the guidelines, and (3) the Conservative proposal, in addition to communications to members of the committee in response to questions that have been raised concerning the training of staff for the implementation of the rent control bill and information concerning job specifications for staff.

The Acting Chair (Mr Abel): While we are waiting for Mr Tilson, would you like to speak a little on what you have tabled?

Hon Ms Gigantes: No, thanks.

The Acting Chair (Mr Abel): We will move on to Ms Poole.

Hon Ms Gigantes: Confess, you have nothing to say.

Ms Poole: Thank you for remembering that I was on the list. Unfortunately, it was so long ago that I am not sure what it was I had to say. I will pass for the moment.

Mrs Marland: Mr Tilson is trying to return to the committee but he has a conflict with another committee at this hour this afternoon. I know he had not completed his comments from this morning.

I wish to speak further on the amendment I have placed because of the significance of dealing with this word "profit." It seems, Mr Chair, from what I heard in response to my comments this morning, that the word "profit" is almost a dirty word with the government. It is as though it feels that socialism is the only way to go and that the only thing that will work in Ontario is when everybody is being looked after by the state. I say that in all seriousness, because when we have a member of this committee who makes the kinds of statements that have been made in both the last meeting, last week, and the meeting this morning, I think it is indicative of what serious trouble we are in with this piece of legislation, and particularly with the socialist government proposing this legislation.

The member for Yorkview is not here at the moment and I do not like to respond to a member who is not in the room at the time. However, what I am responding to is actually the comments he made last week, which are on the record in Hansard.

The Acting Chair (Mr Abel): Excuse me, Mrs Marland. Is this in reference to the proposed amendment?

Mrs Marland: My proposed amendment, yes.

The member for Yorkview said last week, "If the landlord does have to dish out some money out of their own pockets, I do not have a problem with that."

He also went on in another sentence to say: "We have heard consistently from landlords on this committee, telling us that they want to make a profit. We have toured the province, and they have told us consistently that they want to make a profit; they want to make a long-term profit."

He also said: "I am glad that everybody is watching, because I have not hidden my feelings from day one. If the landlords have to pay a little bit out of their pockets, so what? In the long run, they are going to be making a profit in the building. The tenants know that. The landlords know that. Everybody in Ontario knows that."

The relevance of those comments to my amendment is where my amendment is suggesting that the part of the guideline allocated to profit be equal to 1%, and this is dealing with the guideline for the rent control index.

If we have a socialist government in Ontario that thinks profit is wrong, is evil, that where people make investments they should not be allowed to have profit, then what we are going to see happen in Ontario is a very rapid decline in the future of this province, a very rapid decline in any investment in this province at all, either by the people who already live here or by the businesses, commerce and industries that are already doing business here.

It would not be so serious if we did not see this in every aspect of the bill. This piece of legislation, Bill 121, is unbelievably directed against the very bill it is supposed to protect. It is supposed to be an An Act to revise the Law related to Residential Rent Regulation. It is supposed to be a bill in the interests of people who live in rental accommodation.

When the member for Yorkview said this morning something about "the peasants they are talking about," I

took strong exception to his referring to tenants as peasants. Those are his words, not mine. What really concerns me is the mentality and the philosophy behind legislation that pretends to protect tenants. In fact, in the long run, tenants are going to be the losers.

The reason tenants are going to be the losers is because if we do not allow people who own property to have a reasonable profit, why would they retain ownership in that property? Even more gravely of concern to me is how we can encourage more people to invest in rental properties to accommodate the ever-increasing number of people who cannot buy their first homes in this province and are dependent on rental accommodation.

With a growing population from all kinds of causes and sources, we have to provide housing in this province. We have a Minister of Housing who thinks it is okay if people live in rental accommodation. She said in response to one of my questions in estimates that a large percentage of people live in rental accommodation—I think the figure she gave me in the estimates was actually 40%, though I think she has since changed that figure. In any case, if we are talking about a large percentage of people in rental accommodation who may never now be able to afford that first home purchase, and as this Minister of Housing has said that she is not interested in helping those first-home buyers, the question is, where are these people going to live?

There are no government incentives planned, apparently, because I asked three times in estimates whether this Minister of Housing had any plans to help people buy their first homes and each time the answer was worded differently, but each time the answer was, really, was there a necessity to help people buy that first home? I feel very strongly that there are government incentives that do not have to end up costing the government money but can help facilitate people acquiring their first homes.

So if this is the situation, where the rental market is bound to grow, then we are going to have to look for a growth in investment in rental accommodation. When we know that the financial institutions are not now willing, with this piece of legislation, to finance apartment buildings, if we continue with the legislation in its present form, we are not going to have any new rental accommodation built, we are not going to have people wanting to invest in the existing rental accommodation, and these tenants, whom this socialist government purports to protect through this legislation, are the people who shamefacedly are going to be betrayed.

This piece of legislation is a pure betrayal of those tenants' rights. It is a betrayal because while the member for Yorkview talks about Robin Hood, robbing the rich to pay the poor, what really is happening is that those people who have no other alternative to rental accommodation are first of all going to be out of luck for new units. The units they are now living in are not going to be maintained to the standard that in my opinion tenants have a right to.

1610

On top of that, if we are talking about the people who have made that initial investment, I think the point the government chooses to ignore here is that we are not talking about the large conglomerate ownership of multi-unit apartments. We are talking a lot about those people who have invested their lifetime savings into ownership of apartment units as their own security for retirement, and possibly to move into one of the units themselves, knowing that every single penny they scraped and saved to invest in that building was secure.

I am older than you are, Mr Chairman, but I think most of us in this room can appreciate the fact that there was never anything safer to invest in in Ontario than land and buildings, way better than stocks, shares or any other alternative venue. If you invested in land in this province, especially with an income-generating building for rental housing on it, you were safe. What is happening with this legislation is that you are not safe, because this legislation says you can even have your rent reduced.

Never mind us talking through this amendment I have on the floor now about the rent control index; we also know that whatever rent is allowed by the government, it may well be that an individual's rent may even be reduced as part of another section.

The member for Yorkview talks about his constituents being glad that he is saying what he is saying in this committee; he said this morning his constituents were glad. He said last week, "But I will tell you, the tenants in my riding want to hear from this idiot," referring to himself. I found that really significant. I hope the tenants in his riding are hearing from him because if they are they will know what to do at the next election if they want to have a future in rental housing in this province.

I think his words this morning were, "kicking and punching tenants for more money." I think he should talk to those tenants. I found it very significant this morning, as a matter of fact, when the member for Eglinton mentioned the poll that had been done—

The Acting Chair (Mr Abel): Mrs Marland, could you please restrict your comments to the motion. It would appear you are slightly straying from the discussion on the motion. I would appreciate it and I think it would be somewhat more expedient if you would keep your comments to Bill 121, subsection 12(1), as amended, please.

Mrs Marland: Mr Chairman, I am very happy to keep my comments to the motion. There was a little more latitude this morning, I suppose, when the member was allowed to talk about Robin Hood.

When you interrupted me in mid-sentence, I was about to tell the Chairman that this morning, when the member for Eglinton referred to a poll of tenants that had been done, those tenants in the poll actually agreed that landlords should be allowed to make a profit on their investment. Is that not interesting? Mind you, I am sure the rebuttal from the government members will be: "That was a skewed poll. You can skew a poll to say anything you want it to say. If you asked my tenants, they would not think the landlord had to make a profit."

I have talked to my tenants and my tenants want the quality of life they presently enjoy in their well-kept buildings. They want the security of knowing that if a major piece of work has to be done, a major project undertaken

in their building, their landlord will be able to do that work because he will be able to afford to do it.

I know when we talk about profit—I am asking for 1% in my motion pertaining to the guideline—my tenants are saying: "We want the buildings we live in, which are our homes, to be maintained. We want that to happen, and we understand it will only happen if the government is just and fair to the person who owns my apartment building."

Justice and fairness do not come from a member of the government who says, "If the landlord does have to dish out some money from his own pocket, I don't have a problem with that." That is not justice and fairness. It is not just and fair to say, "If the landlords have to pay a little bit out of their pockets, so what?" What kind of elected people do we have in the government party of this province who speak this way and think the person who has invested in that property does not have a right to a return on his investment?

I am talking about 1%. I am talking about the loss in real value of millions of dollars in this province in these apartment buildings. Under this draconian legislation, that real value is diminished to where those buildings are virtually worthless. If you think that is an exaggeration, go and talk to your bank. Find a realtor who has a building for sale and then go to the bank and try to get a mortgage on that building. You will find, with this bill almost coming down to its grand finale, those financial institutions are not interested in lending you money. Maybe there are people wealthy enough to invest in apartment buildings without mortgages, but I do not know any. I do not know the kind of people who either have that money or who, in their right minds, would make that kind of investment today. Everybody is dependent on a mortgage, as are most of us when we buy our homes.

Your government is saying through this legislation, "Go ahead, invest in real estate, provide housing for people who can't afford to buy a house or who may choose not to." Not everybody chooses to buy a house. A lot of people are at the point where they have actually sold their houses because they cannot afford the municipal taxes on their fixed incomes and, alternatively, have moved into apartments. Go ahead and say to the people who are dependent, for one reason or another, on rental accommodation, "We think, as a government, your landlord shouldn't make a profit on his investment." Go ahead and try to explain that to the people living in those buildings. Go ahead and try to explain to anybody why "profit" is a dirty word in Ontario.

This morning the member for Yorkview talked about Robin Hood and that it has to stop. What an insult to people of intelligence to make that kind of statement when we are talking about 1% profit on an investment, or any profit that is fair and reasonable on investment. His mentality in making that statement reflects on what, thankfully, has just stopped in the eastern European countries. I thought communism had ended. I thought we were in a world today in Canada, and particularly in Ontario, where we were going to say to the world: "We'll look after the people who need to be looked after. We'll protect the frail, the elderly, the infirm and the people who for one reason or another cannot afford to meet their housing needs."

1620

Our party is quite willing to do that through a direct shelter subsidy program, which we have asked this Minister of Housing to look at. In response to questions, she tells us studies exist that prove shelter subsidy does not work. I have yet to receive a copy of those studies I was promised.

In speaking to this motion this morning, the member for Yorkview said, "We've got to stop robbing the poor to pay the rich." Who does he think is going to provide the housing of the future in this province? Who is going to provide the jobs and the employment opportunities in this province, if we do not allow people some return on their investment? That is what this amendment is all about.

Mr Mammoliti: On a point of privilege, Mr Chairman: I am continually being misquoted here. The impression the member is trying to leave is that I do not want landlords to make a profit. I did not at any time say that today. I said I agree with profit and I believe I put it this way: I am going to continue saying that, instead of $12, perhaps somebody should get $10 and not be so greedy.

Second, I said this morning—and I believe I responded to something Ms Poole was saying—that when I asked continually in the hearings how much profit landlords want to make, nobody responded. The member for Mississauga South continually gives the impression I said something I did not say.

The Acting Chair (Mr Abel): That is not a question of privilege.

Ms Poole: On the same matter, I just wanted to point out again this afternoon to Mr Mammoliti that the Conservative motion is actually very specific about the amount of profit. They have asked that the guideline have built into it a 1% component for profit, as was the case under the Residential Rent Regulation Act. That is quite specific, and going beyond that is unnecessary at this time.

Mr Mammoliti: That has nothing to do with my point of privilege.

Mrs Marland: The member for Yorkview says I misquote him. I am reading from the Hansard preliminary transcript for the standing committee on general government, Rent Control Act, 1991, Thursday 28 November 1991, afternoon sitting:

"Mr Mammoliti: If it is not, if the landlord does have to dish out some money out of their own pockets, I do not have a problem with that. I have said that from day one. We have heard consistently in this committee, from landlords—"

Then there is an interjection by myself where I said, "Welcome to Russia."

"Mr Mammoliti: She is talking out of her ear again, Mr Chairman. We have heard consistently from landlords on this committee, telling us they want to make a profit."

Hon Ms Gigantes: On a point of order, Mr Chairman: This really does not advance the discussion on the amendment before us. I wonder if we could not focus on the amendment before us.

Mr Mammoliti: Stop worrying too much about me, Margaret.

Mrs Marland: I think it is very curious that the minister interjects on my response to the member of your—

Hon Ms Gigantes: Mr Chairman—

Mrs Marland: Excuse me. Who is chairing this committee?

The Acting Chair (Mr Abel): Perhaps I could resolve this problem.

Hon Ms Gigantes: Mr Chairman, I raised a point of order. I did not make an interjection.

The Acting Chair (Mr Abel): That was what I was going to say. If I could, hopefully, resolve this problem, it does appear that we are straying somewhat. I think it is very important that we keep our comments and suggestions to your amendment.

Mr Tilson: On a point of order, Mr Chairman: The subject before us is an issue of profit. That is one of the major issues we are suggesting in this amendment, and there have been comments made by a member of the government party on this committee which deal with that subject of profit. I believe it is perfectly in order for Mrs Marland to deal with that issue in her attempt to try to convince the government to support this proposal for amendment on the importance of profit in the survival of the housing industry in this province. That is why she is going through this exercise. Therefore, Mr Chair, I would submit to you that she is perfectly in order in her presentation to you.

The Acting Chair (Mr Abel): Thank you for your contribution, Mr Tilson; however, Mrs Marland is quoting Mr Mammoliti from his comments made yesterday. That is not in reference to this amendment.

Hon Ms Gigantes: It was last week.

Mr Tilson: Mr Chair, the subject deals with the issue of profit, and that is what Mr Mammoliti has been referring to. He has been referring to the subject of profit, and that is exactly why she is emphasizing these types of remarks that have been coming from the government side. It is perfectly in order for her to refer to comments that were made this morning, last week, several weeks ago or last year. It is done all the time. That is why we are trying to convince the government to change its position on this. It is in order, Mr Chair. I will submit it is in order because it is dealing with the subject of profit and the government's position on the subject of profit.

Mr Marchese: On a point of compassion, Mr Chair, for me really: Not to diminish anything the member wants to continue to say—I urge her to continue—it is just that I do not believe it is fruitful for her to continue to diminish another member. In so doing, in my view, she diminishes herself. It is undignified to continue to do that. It is not intended through these comments to not allow her to continue, but I would appeal to her not to continue every other moment to mention the other member.

The Acting Chair (Mr Abel): Thank you, Mr Marchese. Based on the information that has been presented, Mrs Marland, your comments are in order. However, I would again suggest that for the sake of expediency, you please keep your discussions limited to your amendment and not to comments that others have made in the past.

Mr Mammoliti: On a point of order, Mr Chairman.

Mrs Marland: Oh, this is great.

Mr Mammoliti: If her comments are in order, Mr Chair, I would suggest that she read the particulars, perhaps more specifically where I said that even though the money is coming out of their pocket, it is an investment in the long run.

The Acting Chair (Mr Abel): Thank you, Mr Mammoliti. Mrs Marland, please continue.

1630

Mrs Marland: Mr Chairman, I would have continued had the member for Yorkview not interrupted on a point of privilege. His privilege was that I was misquoting him. That is why I am reading directly from Hansard, so that he cannot challenge me on misquoting him. I think the problem with this committee is that, with the exception of two of us, everybody has been here for one year and they have not yet apprised themselves of the rules of procedure. I know quite well that I can talk about anything related to this motion dealing with the subject of profit. That is simply what I am doing, and I am going to continue. Thank you.

To continue:

"Mr Mammoliti: We have heard consistently from landlords on this committee, telling us they want to make a profit. We have toured the province, and they have told us consistently they want to make a profit; they want to make a long-term profit; they want to retire to Florida; they want to retire to Europe; they want to retire and they want to make a hefty little profit on the side."

This is the comment of Mr Mammoliti. As he has asked me to read this, he goes on: "I am glad that everybody is watching...."

I actually read this before you came in this afternoon, Mr Mammoliti, but as you are concerned about me misquoting you, I will continue to read it for your own edification:

"Mr Mammoliti: I am glad that everybody is watching, because I have not hidden my feelings from day one. If the landlords have to pay a little bit out of their pockets, so what? In the long run, they are going to be making a profit in the building. The tenants know that. The landlords know that. Everybody in Ontario knows that."

If that is the case, and this member for Yorkview really believes that, then why would he be opposed to my amendment? It is very straightforward. If he believes what he says—and I realize he has difficulty recalling what he said, which is why I have the Hansard in front of me—

Mr Mammoliti: On a point of privilege, Mr Chairman: How can she possibly know what I think? I believe there are provisions under the standing orders. How can she possibly come out and say what I am thinking? I do not think she can. I would like you to rule on that, please.

The Acting Chair (Mr Abel): It is true that it would be very difficult to guess what anybody is thinking. Mrs Marland, if you would—

Mrs Marland: Fortunately, Mr Chairman, I do not have to guess. I have the Hansard record in front of me, so I do not have to guess what the member for Yorkview thinks. I do not have to guess what he says. It is here in Hansard.

The minister said this morning, interestingly enough, that this section is essentially what this bill is about. I could not agree more. This bill is about taking the right of investors away. It is about taking away the right of tenants to have well-maintained buildings. It is about the philosophy and thinking of this socialist government that everybody else should pay, to use the words of the member for Yorkview, "Robin Hood." I can hardly wait to read his actual words in today's Hansard from this morning's meeting, because I would not want to be accused of misquoting him, but what he said this morning about Robin Hood was very relevant to his argument and will make very significant reading.

He also said this morning that an investment is an investment. He referred to buying a car and then said that maybe a car is not a good investment. I wonder—I do not know, of course—whether this member, who is the only person from the government whom we have heard speaking on the issue of profit at the moment, understands what profit is. I do not know. Maybe he could explain to me why he is now saying this afternoon that he is not against the landlords making a profit.

I would like to feel assured that he knows what the word "profit" means, and that when I ask for 1% profit in the guideline for the people who own these buildings—and he says now that he has never said he was opposed to landlords having a profit. If he is not opposed to landlords having a profit, then maybe he is in favour of them having 0.5%. Maybe he has some reason he cannot give them 1% profit.

Mr Mammoliti: I am opposed to greed.

Mrs Marland: He talks about his regard for his constituents who are tenants, but it would not be apparent that he would care enough about his tenants to not want them to live in slums. I want to tell you that I care enough about my tenants that I want them to be protected from what will be the inevitable outcome if this piece of legislation proceeds. I simply say to you, Mr Chairman, that this syndrome, this way of thinking of the socialist government against those people who own property, is sick. It is totally sick and it is totally unjust, because if the government thinks it is the alternative to providing housing for the people in this province, an alternative to the private investor, I would like to ask this government, through the Minister of Housing, how it will provide enough rental units in this province without tremendous capital investment by the government, if the private sector is put out of business by having to withdraw from ownership of these units with this legislation.

The Acting Chair (Mr Abel): Thank you, Mrs Marland.

Mrs Marland: I am asking the minister the question, Mr Chairman.

The Acting Chair (Mr Abel): Minister, would you like to respond to that?

Hon Ms Gigantes: Yes, I was next on your list, I believe, Mr Chair. Thank you.

I would just like to go back for a second and suggest to the member for Mississauga South that perhaps if she read some of the letters from tenants who have, under the existing legislation, gone through year after year of double-digit rent increases, sometimes in the 20% range—in the riding of Yorkview and many other ridings around this province, but Yorkview certainly has had its share of difficulties in the letters that I have to sign off to tenants—she would appreciate the passion with which Mr Mammoliti speaks on behalf of the needs of the tenants in his area. I also found it interesting; I have always thought of Robin Hood as a robber with a redistributive bent, but I have never heard anybody call him a communist before, and I do not think George qualifies for that ignoble name at all.

Mr Tilson: He sure ain't Robin Hood either.

Hon Ms Gigantes: I should perhaps tell the member for Mississauga South that when we had a discussion during the estimates of the ministry a few weeks back about the plans of the Ministry of Housing to assist people acquiring their first homes, I did indeed indicate that we did not have plans to develop programs to assist people to buy their first homes. What I was not aware of then—and it is a matter of my unfamiliarity with the full range of programs that affect housing, having started out fairly recently in this portfolio, and I apologize to the member for that—was that the Ministry of Revenue has a program called the Ontario home ownership savings plan. It was begun in 1988 under the previous government. There have been 180,000 plans opened, and it provides over a 10-year period a tax credit of $1,000 a year for people who are saving up to buy their first homes. Some 85,000 homes have been purchased by first-time buyers under this program.

Mrs Marland: On a point of order, Mr Chairman: It is interesting that you do not rule that the minister is not speaking to the question of profit.

The Acting Chair (Mr Abel): I have been listening very intently, and she was responding to your comments and statements. Continue, Minister.

Hon Ms Gigantes: In fact, that is all I had to bring to the attention of the committee on that point, but I did want to indicate to the member for Mississauga South that there is an existing program which has obviously benefited a lot of first-time home buyers.

On the question of profit and the small amount of 1% to be added to the guideline to be paid by all tenants in the province each year proposed by the Conservatives, for the Conservatives to suggest that this addition of 1% and the designation of it within the guideline as profit—that does not mean it is the only profit available to a landlord. For them to put forward the argument such as we have just heard from the member for Mississauga South, that without the addition of this extra 1% within the rent control guideline there would be no profits available at all to landlords in this province, is absolutely ludicrous.

1640

The effect of the addition of 1% will be to increase the rents paid by all tenants in the province. It will ensure that

there is an extra part within the guideline which will increase, without any justification from the landlord about why it should increase. It will not have to apply to any particular rental situation or any particular renovation needs or any particular maintenance needs. This is just another bit of icing that the Conservatives wish to place on the guideline cake for landlords.

We can find no justification for doing that. For them to suggest that putting within the guideline this 1% they are proposing is the only way that poor landlords in Ontario are going to be able to subsist at all in making profit, I mean, where have they been getting their profits up to now under the guideline? It is just nonsense. Most landlords do not apply for over-guideline increases during the year. Since 1986, I believe, the pattern has been that about a quarter of the units in the province are the subject of an application by landlords for above-guideline increases, which means that the other landlords in the province simply have not felt the need to go above guideline in that particular year, so for her to suggest that they have been starved for profits out there and that they are barely hanging on, that defies common sense. We reject the notion of the addition of this 1%. We reject the categorization of this extra 1% as a profit margin for landlords as if there were no other, and we reject the total proposal contained in this amendment.

Ms Harrington: There are several points of clarification that I feel are necessary. A lot has gone by in the interim. The very first and I think most important thing that I believe the member should be aware of, and I would hope to clarify for the opposition, is that we have been through this in committee over the past year, I believe since last January. That is why we are bringing this bill in. I think you will remember the Residential Rent Regulation Act. It was a piece of legislation that was not working for the tenants and was not working for the small landlords.

What we have said over and over again, if you would care to look at the transcripts of this committee—I hope you will believe it; I think many people do—is that we want a reasonable profit for landlords. Landlords understand that they have to be in business. The government understands that the private sector rental market is a very important part of affordable housing in Ontario. I really hope, because the previous speaker, the member for Mississauga South, has not been with us a long time, that she would understand the whole reason for us going through these hours together is that we want a workable piece of legislation for the next four years and more ahead.

We looked at the existing legislation. It was not working well. It was not being fair to people, whether landlords or tenants, across this province. If you look at the headlines of types of speculation in the housing market over the past many years by the developers across Ontario, besides that point of view I think you will also understand the tenants' point of view, that there were many inequities that need to be addressed and that some of these could be addressed through legislation.

I hate to even touch on a couple of other things that she talked about. Obviously many of us who are home owners or property owners or even landlords understand that when you own a building, as a landlord you are there for the long term. You are there providing a service for your clients, who are the tenants, and that you invest in the building. Many of us who are home owners understand that as well, that it is a long-term investment and that you do put money out of your pocket from time to time, as Mr Mammoliti was quite reasonably saying. It is a give and take and a flow of investment over several years. Many of us have several investments, if not many, and understand.

A very important part of this legislation, which I believe Mrs Marland was trying to get at, is protection for tenants. Let's look at what her amendment is doing. The Conservative amendment would add another 3% to what people would be paying in rent increases. In this next year, 1992, how many people does the member know or do we know who have a guaranteed raise in their salary or job or whatever their source of income, of 6%? We just heard in the House this afternoon the difficulties in social assistance. We know that across this province there are going to be no more increases in salaries of 6% or more. That is my impression and I think it would be a feeling that most reasonable people would get, that looking ahead, times are going to be very tough. What the Conservative amendment we are debating right now would do is to have a 9% increase in the rent across this province, and then the landlord could apply for extraordinary operating costs above that of 3%. So we would now have a 12% increase that tenants could be faced with. This is what Mrs Marland is putting forward.

That is the type of protection, I gather, that she is thinking of in these difficult times ahead. What we in the government are trying to do is to protect the tenants so they have some stability in their rent increases, to make it reflect the costs of doing business. I think that is clearly what the minister has put forward in the papers today, the guidelines that she has explained, the costs of doing business. That is what we call justice and fairness. That is what we are trying to do.

I just want to reiterate and have it on the record that landlords have to be able to make a profit. That is the other side of that equation and that is reflected in the 6%. If that is not a more-than-generous increase this next year, I do not think anyone in this province would deny that, including the landlords I know in my community. I hope that would be of some help to the people here.

1650

Mr Tilson: There have been some interesting statements made by both the minister and Ms Harrington with respect to the subject of profit.

What the minister said this morning, as I understand it, is that profit would be obtained on the increase of the value of the building over a period of time. I believe that is what she said. That seemed to be her exclusive area with respect to profit. If she wishes to elaborate on that, that is fine, because this is one of the questions where we have been trying to determine from the government to exactly what sort of profits, if any, a landlord is entitled to receive.

I am not going to deal with the Robin Hood issue. We have had enough of that. But at the same time Ms Harrington then simply said that with regard to the increases that

are being allowed under this bill, there is plenty in there for profit. That is not how the calculations are being determined as to the percentage increases. There is no mention of that at all. That is not what it is for, at least on the submissions that have been made by both ministers, Mr Cooke and Ms Gigantes, over a period of time. With respect, Ms Harrington, that is not what you have been saying.

The emphasis does seem to be on the increase of value over buildings. That was reiterated by the minister this morning and further elaborated just a few moments ago by Ms Harrington who said, "Well, it's understood that landlords would be owning their buildings over a period of time." The difficulty I have with that is, who says they are obliged to own their buildings over a period of time, and what does a period of time mean? Should it be a year, two years, five years, 10 years? What rules are we setting? Surely we are not setting down rules of, "Well, you've got to own your buildings for a period of time."

We are hearing more and more facts that are being revealed in the press and elsewhere and in correspondence that I am receiving—and I am sure you are all receiving similar correspondence—on the values of buildings, that are falling for various reasons. We will not get into our political wrangling over why they are falling, but they are falling. That is the fallacy, as I see it. The government's position is that this is where the landlords are going to get their profit, that they must hold on to their buildings for a longer period of time and that maybe they will get a few dollars and maybe they will not.

There was a landlord in the audience this morning, for example, and I think he is still here, who spoke to me during the break and made the observation that if you had a $1-million building, 22 units, and you put 25% down, if you follow the government's rationale you are not going to make any profit on that because you are not going to be able to do it for a longer period of time. He says he could take that money, put it into something like second-mortgage money and receive, perhaps not now but earlier in the year, at least a 17% increase and he is right. I think you would have difficulty receiving 17% on second mortgages now, depending on the situation, but certainly earlier in the year you could. That would be $42,500. You cannot get that now.

Again it gets back to the incentive. What sort of incentive is the government giving to encourage people to get into the housing market, to build? It gets back to the question Mrs Marland asked the minister and has yet to be answered, which is, "How are you, the government, going to provide rental accommodation?" Answers have been given in the House: "We're going to have so many units of non-profit housing and we're going to have so many units of co-op housing." At the same time we are hearing statements from the Treasurer that times are tough, that we have got to hold the line now, that maybe things are not quite as hopeful. Where is the money going to come from? The buildings are not being built. There is not one substantial housing accommodation being built in this province, with the exception of non-profit and co-op housing, and that tells you something. That tells you a lot, that the government is the only one that is getting into it. It does not pay for private enterprise to do it, because there is no profit to it.

I have a number of other areas I wish to deal with, but it is a question that Mrs Marland asked and that I would like the minister to clarify, to respond to the question that both Mrs Marland and I have asked. She was away and I will repeat the question: How are you going to provide rental accommodation to the public of this province?

Hon Ms Gigantes: I will just take a moment. Mr Tilson seems to be under the impression that it is the purpose of this government and the purpose of this bill to maintain high prices for land values, to maintain high values for rental buildings, to maintain high profits for landlords and to maintain a system of high rents. He has got it wrong.

Without going into a long and detailed debate about what is currently happening in the housing market—I do not think Mr Tilson is nearly so naïve as the questions he raises in this discussion—I can tell him that this is the flexible method of controlling rents and the rate of increase in rents. That is all it purports to do. That is its purpose. It works in a system which we believe provides fairly for the general level of costs experienced by apartment owners. We do not guarantee profits to anyone.

I do not know what you call the opposite of a socialist. If a socialist is somebody who wants to protect tenants in this instance, then what do you call somebody who wants to protect landlord profits and guarantee every owner of every apartment building a certain level of profit? Maybe Mr Tilson has the answer.

Mr Tilson: The question that was asked had to deal with the whole issue of encouraging, of getting this housing market back where it was.

Hon Ms Gigantes: We do not want it back where it was. Back where it was people could not in fact—

Mr Tilson: There are no new housing developments being built in this province and you know it. The only housing developments are non-profit.

The Acting Chair (Mr Abel): Let's have some order here, please.

Hon Ms Gigantes: People still cannot afford the rents.

The Acting Chair (Mr Abel): Order, please. I will not allow a one-on-one debate as such. I believe, Mr Tilson, you had the floor. Would you please continue and we will give the minister time to respond.

Mr Tilson: The question was asked in the spirit of how new housing accommodation is going to be built, how existing housing accommodation is going to be renovated and maintained.

We have heard weeks and weeks and months and months of testimony that landlords, under this legislation and under Bill 4, simply cannot do it. They simply cannot financially operate in that fashion. In other words, the profits are not there. The incentive to enable them to do that is not there.

The Ministry of Housing has produced facts that there is no new housing accommodation being built in this province. There is none. The only housing accommodation of

any substance is being built by the government, which is non-profit housing and co-op housing.

At the same time the landlords are making these statements—to be fair to Ms Gigantes, I am not so sure she did—certainly Mr Cooke has stated the number of non-profit housing units that the Ministry of Housing intends to be allocating over this year and next and it is substantial.

My question is, in light of the many comments we have heard throughout these hearings, how are you going to provide—I am not talking about the issue of profits. The whole purpose of this motion is to create some sort of incentive to get developers and to get people in the private sector to build housing, because I know the government cannot afford to do it, the government does not have the financial resources to do it. The deficit has gone as high as it can. It cannot go any higher.

So again, my question to you is, in light of the recession worsening and in light of the fact that no new private housing is being built for rental accommodation, how are you going to provide the badly needed rental accommodation that is needed in Ontario?

1700

The Acting Chair (Mr Abel): Thank you, Mr Tilson. Minister, do you wish to respond?

Hon Ms Gigantes: Just very briefly. Across Canada there is practically no residential construction going on. That includes private residential construction for homes and it includes rental residential construction. There is practically no condominium construction going on compared to the levels we saw in the late 1980s.

There is market distress and there is tenant distress also. The reason we have condominiums available for rental with nobody in them and landlords who have to lower their rents below the maximum legal rent under the current legislation is that people in Ontario cannot afford to pay the rents. Some of those people hopefully will quickly be back at work and earning more than they are able to earn now. Some of them have to live on assistance from this government and some of them are living on unemployment insurance cheques. Times are difficult out there. I would not expect there to be a residential housing construction boom here or anywhere else across Canada at this point in time and neither would Mr Tilson, if he gave it half a moment's thought.

Mr Tilson is not stupid. Mr Tilson is playing naïve here. He is attempting to suggest that the reason we are not getting residential rental construction at the moment in Ontario is that there is an NDP government and a proposal for rent control with which he disagrees. We are not getting rental residential construction at the old levels anywhere across Canada. We have got empty units available for rent which people cannot afford.

One of the things we are trying to ensure is that in future we are not going to see the kinds of increases we have seen in the recent past so that so many rental units are at levels that people simply cannot afford. I think he understands that.

Mr Tilson: The small landlords, whom I again spoke to this morning, are typical of many of the landlords we have met in our travels here in Toronto and around this province. Their concern is that year after year landlords simply cannot get a return with the Bill 4 type of legislation and this type of legislation. If they are to complete major renovations to their buildings, whether it be concrete work or whether it be for parking garages or whether it be for laying of carpets in the halls or for any type of boilers, and on it goes, money is not growing on trees.

Where are they going to get the money from? They are going to have to go to a bank and they are going to have to mortgage either their building or their own homes. We have heard landlord after landlord say that is exactly what they have done, that financial commitments have been made.

We have also heard evidence from the bankers' association. The difficulty is common sense; no banker or lender of money is going to lend money to a landlord who is not making a return on his dollar, particularly with the depreciation of buildings, the value of buildings as they tumble, so the circle is stopped.

There are no resources for landlords to go to financial institutions or lenders to obtain mortgage financing, whether it be on the buildings they are renting or their own personal houses, which they have done, because the lenders will say, "Well, where is your return?" and they will say: "We don't have one. With this law that is coming forward it is more and more difficult for us to make a return."

The minister has simply said, "Well, they were making profits before." That is not what the hearings have told us. The minister was not at those hearings; we were. I am telling you, there was not a landlord I can recall who said he or she was making the profits that you are suggesting before Bill 4 or after Bill 4—right now. They are not making the profits so there is no incentive.

Again, I am suggesting to you that our amendment completes the circle, because obviously capital expenditures are going to have to be made to buildings that are 20 years or older in this province; 75% of them are at that rate and getting older because the new ones are not being built. We know there is a desperate need for capital expenditures to be made, so how are they going to finance them? Any lenders with any common sense—and most of them have a lot of common sense—are not going to lend to the landlord.

The other difficulty that was raised by this small landlord here is typical. He is not the only one who has made the suggestion. It was made during the hearings. It gets back to the issue raised by Ms Harrington, the increase on the value of buildings over a period of time. Buildings are falling in value, so if that is the sole basis for profit the lender will look at that too and say: "Why in the world will I give you a mortgage when the value of your buildings is depreciating? They're going down, you're not making a profit and your buildings are depreciating, decreasing in value."

The landlord is in a catch-22 situation. What is the landlord going to do? He cannot renovate his buildings, he cannot build them up and he cannot maintain them. Some of these expenditures will be substantial. Where is he going to get his finances? Money just does not grow on

trees. Again, that is the intent of the amendment, to provide some sort of incentive to enable landlords not only to build new accommodation, but to maintain the existing one. If this section passes unamended, that circle will be stopped and there will be no new purchases and there will be no renovations.

I even have landlords saying to me now, "Just little things—I can't afford to do such things as flower gardens." The government has come back and said, "We care for the tenants." We care for the tenants as well. We care for the quality of life the tenants should have. We should all live the good quality of life that we have had. It is deteriorating because capital expenditures will not be made, renovations will not be made. Already I can tell you—and I referred to that incident in this committee before—in my own riding I attended a meeting where a landlord said: "Here are my books. Look at them." He cannot even afford to upgrade the quality of carpets in his units. He has two units.

How we are going to maintain and improve the quality of life of the tenant is a very difficult situation. How are we going to do that when we are so restrictive of the landlord, so he can make a proper return? I hope the members of the committee would consider those comments and support this amendment.

Ms Harrington: I wish people would consider the situation which has been in effect under the previous legislation, what I call a guaranteed investment for landlords, that whatever their situation, whatever their mortgage or what they have wanted to do with the building could be passed through to the tenants. I put to you that if you are investing, whether in a business, a corner store or the dry cleaners or whatever, your chance of going out of business within the first five years is quite high. That is the risk of going into business. But being a landlord, what had been in effect was that you had a guaranteed investment, and that was an increase every year. I just would like to put that in the record.

The Acting Chair (Mr Abel): Thank you, Ms Harrington. If there is no further discussion, I call the question on Mrs Marland's motion to amend paragraphs 12(1)4, 12(1)5 and 12(1)6.

Mrs Marland: Mr Chairman, I would ask that we recess for 20 minutes to allow the Liberals to be present.

Hon Ms Gigantes: Does it have to be 20 minutes?

Mr Mammoliti: Mr Chair, before you adjourn, what are the standing orders—

Mrs Marland: It is time you knew them, Mr Mammoliti.

Mr Mammoliti: Can somebody from the Conservative Party ask for a recess to call somebody from the Liberals? I am just curious.

The Acting Chair (Mr Abel): Mr Mammoliti, anybody can call the 20-minute recess. Mr Winninger?

Mr Winninger: Could I ask for unanimous consent to make it a 10-minute adjournment recess to call in the members?

Mrs Marland: Mr Chairman, I have requested 20 minutes. In the past, when the New Democratic Party has requested 20 minutes, I respectfully have not asked that they amend it to 10 minutes.

The Acting Chair (Mr Abel): I take that, Mrs Marland, to mean there is not unanimous consent. We will adjourn for 20 minutes.

The committee recessed at 1712.

1730

The Acting Chair (Mrs Y. O'Neill): I understand you have kept the traditions of the general government committee right on the forefront this afternoon and we are now in the position to have a vote after those traditions have been maintained. Are you requesting a recorded vote, Mrs Marland?

Mrs Marland: Thank you.

The Acting Chair (Mrs Y. O'Neill): The question we are going to vote on is the question placed by Mrs Marland, which is the amendment to subsection 12(1) as reprinted.

The committee divided on Mrs Marland's motion, which was negatived on the following vote:

Ayes–2

Marland, Tilson.

Nays–6

Abel, Gigantes, Harrington, Mammoliti, Poole, Winninger.

The Acting Chair (Mrs Y. O'Neill): All right, thank you. I understand now that we are in the voting mode this afternoon. We should now take a vote on subsection 12(2), as reprinted.

Interjection: Subsection 12(1).

The Acting Chair (Mrs Y. O'Neill): Oh, I am sorry. I have skipped subsection 12(1). I guess we have been talking about it all day. If we may go to subsection 12(1) as reprinted and presented by the government, I would like to take a vote on subsection 12(1) as reprinted. Yes, Mrs Marland?

Mrs Marland: Madam Chairman, I am trying to think when this committee retook a vote. Last week, on the request of one of the members—I think it was actually the government motion; I cannot recall which motion it was. I think it was the government motion placed by Mr Marchese that we split. There were two sections to that motion.

Mr Marchese: Yes.

Mrs Marland: Thank you.

The Acting Chair (Mrs Y. O'Neill): I am sorry I was not able to be helpful in that.

Mrs Marland: We split the vote on it. I am just wondering if you would reconsider taking the vote on my amendment, which has three sections, and splitting it.

Hon Ms Gigantes: No.

The Acting Chair (Mrs Y. O'Neill): We have taken the vote. That is not usually parliamentary practice, but was there a precedent set in this committee last week?

Hon Ms Gigantes: No. We certainly do not have to go back on votes.

The Acting Chair (Mrs Y. O'Neill): Okay. I think if you had requested that before we took the vote, it would have been quite admissible.

Mrs Marland: Madam Chair, there are lots of precedents where the votes are retaken, at the request of all parties at different times in the House. Most notably, recently one of the government motions in the House was retaken. It requires unanimous consent to retake a vote. We have done that with all parties.

The Acting Chair (Mrs Y. O'Neill): I will ask for the show of unanimous consent for the request of Mrs Marland. Is there unanimous consent? All right then, that request has been denied. As I say, I think it is now time for us to vote on subsection 12(1) as reprinted. Those in favour of the section of the bill, numbered 12(1)?

Subsection 12(1) agreed to.

The Acting Chair (Mrs Y. O'Neill): Subsection 12(2). Mr Tilson?

Mr Tilson: This is a question that was asked during the hearings and I do not know whether the staff have had an opportunity to deal with it. The wording, I believe, is the same as it was.

The Acting Chair (Mrs Y. O'Neill): Is it the publication of the guideline you are speaking to, Mr Tilson?

Mr Tilson: Yes. The wording is the same. The question was asked during the hearings and never really got an answer that I can recall. The residential cost complex index is to be published not later than August 31 in the preceding year. The question is, what happens to the 1992 guideline? I guess a lot depends of course on when this legislation is going to be proclaimed.

The Acting Chair (Mrs Y. O'Neill): Madam Minister?

Hon Ms Gigantes: Madam Chair, if the member refers to the subsequent subsection 12(3) he will see the 1992 guideline is the one that was published before August 31 of this year. It will be 6%.

Mr Tilson: I do not know whether that answers it or not.

Hon Ms Gigantes: Whether this bill passes or not, Madam Chair, the rent guideline will be the 6% that was published.

Mr Tilson: The difficulty is that subsection 3 indicates that it will be calculated under the Bill 51 guidelines.

Hon Ms Gigantes: You have got it.

Mr Tilson: That is right. That is the purpose of the question. Is that a fair assessment?

Hon Ms Gigantes: Assessment of what?

Mr Tilson: A fair assessment for the formula; basing it on the Bill 51 guidelines.

Hon Ms Gigantes: It may be or it may not be, but we are required by law to do that because we are still operating under Bill 51.

The Acting Chair (Mrs Y. O'Neill): Is that a satisfactory answer, Mr Tilson?

Mr Tilson: She is right. It is done, and it is difficult. We are voting on something that has really been done.

The Acting Chair (Mrs Y. O'Neill): If there are no further questions, perhaps we are in the position then to take the vote on subsection 12(2).

Subsection 12(2) agreed to.

The Acting Chair (Mrs Y. O'Neill): Now we are at subsection 12(3). Any comments or questions or discussion on that subsection? Those who are for that subsection? Those who are against? I declare subsection 12(3) carried.

May we consider the whole of section 12 carried?

1740

Ms Poole: I have an amendment 12.1 to section 12.

The Acting Chair (Mrs Y. O'Neill): Yes, I understand from the clerk that we must complete section 12 before that amendment will be permitted.

Section 12 agreed to.

The Acting Chair (Mrs Y. O'Neill): We will now entertain your amendment, Ms Poole. I understand this amendment is a suggestion for a new section to the act, the section being 12.1. Excuse me before you begin. I have a copy of it and it seems the minister does not have a copy. Does everyone have a copy in the committee, beyond the minister? Please begin.

Ms Poole: This one was actually tabled with the committee with the balance of the Liberal amendments on the first day, so it must have just inadvertently not been in the minister's book.

The Acting Chair (Mrs Y. O'Neill): Mrs Poole moves that the bill be amended by adding the following section:

"12.1(1) Every landlord of a rental unit in a residential complex that is partially exempt from this act under subsection 3(5) (time limited exemption) shall maintain a separate account for future eligible capital expenditures in accordance with this section and as prescribed.

"(2) The landlord shall deposit into the separate account an amount equal to 2% of all money received in respect of rent for the residential complex.

"(3) The landlord shall not expend the money in the separate account while the residential complex remains partially exempt from this act.

"(4) When this whole act applies to the residential complex, the landlord may expend the money from the account on eligible capital expenditures for the complex."

Ms Poole: The effect of this amendment would be to create a capital account for new buildings. The term used in the motion is "complexes that are partially exempt." We say partially exempt because they are exempt from most of the provisions of Bill 121, except, for instance, the provision that they must provide notice to their tenants of any rent increase.

These are new buildings, and what we are suggesting is that a capital reserve fund be created for each new building in Ontario. I am somewhat concerned that given the limitations on the new buildings, there may not be many of them to go up. But I think for any that do go up, it is important that we create a capital reserve so that at such time as the roof gives in or new windows are required or work is

necessary to be done, there is a fund available so there is no need for rent increases at that particular time.

This has been a request of tenants for several years now, that in all buildings in Ontario a capital reserve fund be established. Partially, I think, it was taken that the Condominium Act had a reserve fund that could be established for buildings and that this would march along with that idea.

The problem with having a capital reserve fund on all buildings is that much of our housing stock is more than 15 to 20 years old. It is extremely difficult to build in a capital reserve fund when the building is in need of repair today; you do not have time to build up a capital reserve fund. So I comprehend that the government might not want to put a capital reserve fund into every building, but surely it does not make any sense not to put one in new buildings.

New buildings can be treated the same as condominiums, and that was one reason, under the Condominium Act, it works so well to have reserve funds. Condominiums were new creatures, it was new legislation, so from day one of the condominium being built, it had a reserve fund in place; it was very easy for them to build it up. That is what we are suggesting in this amendment.

We had another section to the amendment, which was defeated earlier, that proposed that the exemption for new buildings be carried forward for a 10-year period. This was to encourage new construction, because we heard from the financial institutions that it would take considerably longer than five years for a landlord to reach a break-even point and they really felt buildings would not be put up if the exemption was for only a five-year period.

Unfortunately, that section was defeated. However, the capital reserve fund stands on its own and can be accepted on its own merit, so I hope the government will reconsider its position on it and will accept the idea, at least with our new housing stock, of having a capital reserve fund.

The Acting Chair (Mrs Y. O'Neill): Just to clarify, Ms Poole, this is directly connected with the five-year exemption then, is that correct?

Ms Poole: It is, in that it refers to buildings that are exempt, new construction.

The Acting Chair (Mrs Y. O'Neill): Okay. Any further discussion on Ms Poole's amendment?

Ms Poole: Do you like it?

Mr Tilson: No, I do not like it, to be quite frank. In fact, do you have some NDP working for you, I wonder? This in fact waters down the section that was put into the bill to exempt new buildings for five years. They are under rent controls, but if this is passed, they will not be under rent controls.

The issue of reserve funds was raised in both sets of hearings, the Bill 4 hearings and the Bill 121 hearings. A great deal of time was not spent on it, but it did surface periodically. The principle of that, of course, was comparing it to condominiums, where there is a fund for renovations created, and how that is put into by the owners of units of condominiums. That principle was attempted to be put forward here.

The question of course that I ask Ms Poole is that if you create—and that is exactly what this is; this is a reserve fund. This is, as you call it, a separate capital account for new complexes, and that is a reserve fund. So I guess the question I have for you, having listened to you support us at least on the whole issue of profit and having heard comments made by landlords around this province as to the difficulties they have in operating their buildings, is, how is this going to happen? How is it realistically going to happen?

I get back to the question we have been harping away on, emphasizing continually: encouraging new housing accommodation. This takes away from that theory. To give the credit due, I do not think the five-year exemption is nearly enough. In fact, I think you had an amendment suggesting even extending it to 10 years.

Ms Poole: To 10 years.

Mr Tilson: But this waters it down. This waters the proposal of the government down further. So I would like your comments as to how you think the landlords are physically going to be able to manage that, having heard the testimony around this province.

Ms Poole: As I mentioned in my opening comments, the original amendment, if you will, was in two parts. The first part was to extend the exemption or partial exemption for new units for a 10-year period. This was to give the landlord an opportunity to reach the break-even point. In conjunction with this amendment, it would also mean that when the landlords were setting the rents, they would be aware that a capital component would be built into the rent and they would take it accordingly when they set the rents.

What this would do is to force the landlord to think about future repairs and to make sure an amount is set aside. It would not have restricted the landlord in what he or she could set as a rent. All this would do is to ensure that when the landlords set the rent, they could put a portion of it aside. How the landlord did this would be up to the individual landlord, whether he wanted to increase his original rent by a 2% amount, or perhaps some landlords would say, "Well, the market can bear only this, so that will be what I put in." In a sense, it is an investment by that landlord in the building, because that money would stay with the building. That money would be used to improve his or her building.

I am very cognizant of your concern. Your concern is that the motion is now imbalanced because before, you could say to the landlords, "We are going to make it more feasible for you to build and for you to realize a return." But with this standing alone as section 12.1, it puts one more impediment in the way of the landlord wanting to build to begin with.

Quite frankly, I agree with you. I think, having taken away the possibility of that 10-year exemption, there will be very little new construction in Ontario. It is difficult enough in the housing area because the cost of land is so prohibitive that you cannot build affordable housing. I mean, we are not talking affordable housing. A landlord, no matter how he cut costs or what he wanted to do, could

not put up a unit on which he could carry the costs for $500 or $600 a month. It is impossible.

1750

The government of Ontario cannot do it; the units it is putting in cost $2,000. So the first thing is you are not going to increase the affordable housing supply by trying to encourage new construction. What you can do is try to encourage new construction so that people who can afford a market rent of $2,000 are in those units which are new, which would probably tend to be more luxurious. If they have the income to support it, why should they not be in those units? Perhaps some of those people would get out of the $400, $500 and $600 units they occupy right now.

That was the original intent, to make it very balanced, saying, "Okay, let's see if the landlords can have an incentive to build and create a vacancy on the other end of the market in a kind of a bizarre way," but on the other hand to realize the tenants' concern that a certain proportion of rent should go to covering capital repairs. It would just make a lot of sense.

You will notice that the last part of this particular amendment, the last two subsections actually, says the landlord could not use it while the building is partially exempt from the act. The landlord would have to build it up in the fund, and then once the building comes under the act fully, at that stage the money would be there—I had hoped it would be a 10-year period, but it is not—and then the landlord could have access to that money to spend it on the necessary repairs as they come up.

I am not happy with the separation. It defeats part of our original intent. But I still think from a purely philosophical point of view—because I think that is what we are talking about now; there is only a five-year exemption—the government should be supporting a capital reserve fund in new complexes.

I would be most interested in hearing the minister's response as to why this was not included as an NDP amendment to the act, because we certainly heard from many tenant groups that if the government was unwilling to consider the plan as a whole across the province for every building, there did not seem to be a whole lot of rationale for why it would not at least be considered for new buildings. I am quite anxious to hear the government's response in this regard.

The Acting Chair (Mrs Y. O'Neill): Mrs Marland, you are on the speaking list next.

Mrs Marland: I am really a little amazed by this motion by the official opposition and I guess I am a little confused by it, because I have heard the member for Eglinton talk about her concerns about landlords and some aspects of their ability to run a business, which is what it is if you own a building and you rent living accommodation in it. She has talked about her concern about tenants, and yet she is placing an amendment here which is a further penalty on the landlords. I do not know where the member is saying the landlords are going to get the money from. If she is concerned about tenants, then I do not think she would be wanting to put more pressure on the landlords to do one more thing with their income. How far can you spread the income they are going to receive based on the guidelines this socialist government is bringing in?

I guess the whole process is so terribly frustrating because we sit here, on a good day, with a maximum of five opposition members. So it really does not matter what we say or do, the government is going to put through this legislation and they are going to have this bill look whatever way they want it to look. This bill is going down the pipes to affect tenants and landlords in this province regardless of what we say.

I did say last week that maybe if the government is interested in making progress, then instead of dealing with the opposition and our amendments one by one, which is what we are dealing with on the floor now, maybe we should find out from the government if there are any amendments they are willing to accept. We know where they are going with their amendments; they are already printed in the bill. When the government members came in with their 99 amendments to this bill, we certainly knew how well drafted the bill was.

So here we are now dealing with a Liberal amendment. I do not know where the Liberals think the landlords are going to get the money from. If they take it from somewhere else to establish this reserve fund, is there suddenly some other money sprung loose for the landlords to maintain the environment in which tenants in rental property live?

Ms Poole: Did you want me to answer that?

Mrs Marland: I would be happy for you to answer.

Ms Poole: I think I have already partially answered.

The Acting Chair (Mrs Y. O'Neill): The minister has requested to speak. I think it might be good, since we have about two minutes left, if we could hear her response to this amendment, and then you would be speaking.

Ms Poole: Sorry, Madam Chair. She had said she wanted me to answer.

The Acting Chair (Mrs Y. O'Neill): I had just turned to the clerk. I am sorry, I did not see the exact—but I do not think it is proper to ask another member of the committee without going through the Chair.

Mr Tilson: On a point of order, Madam Chair: Surely Ms Poole has put forward an amendment and Mrs Marland is asking for an issue of clarification.

The Acting Chair (Mrs Y. O'Neill): You usually say, "Madam Chair, may I speak with Ms Poole?" or, "May I ask Ms Poole a question?" It is very difficult; I turn to discuss something regarding the adjournment with the clerk and then I get a conversation going between two members. I am sorry.

Ms Poole: Sorry. It is probably my fault because I said to Mrs Marland, "Did you want me to answer that?" and she said, "Yes, would you."

Mrs Marland: If the problem is that the member for Eglinton is not the next person on your speaking list—

The Acting Chair (Mrs Y. O'Neill): No, she is not.

Mrs Marland: —and therefore is unable to answer my question, then I will continue to make my comment and wait until she is in a position to answer my question.

Ms Poole: On a point of order, Madam Chair: On this committee we have previously allowed flexibility when a member is in the middle of a line of questioning and asks the mover of a motion or the minister for a response, that the member be allowed to do so at the time and then revert back to the questioning.

The Acting Chair (Mrs Y. O'Neill): I would not want to destroy the beautiful traditions of this committee because I know how—what should I say?—exemplary they are.

It is almost 6 o'clock. I was trying to decide what to do about that. I presume now that we will begin this place next Thursday morning, but if you want to answer the question I did not hear because I was talking to the clerk, please do it.

Ms Poole: I will be very brief.

The Acting Chair (Mrs Y. O'Neill): Thank you, Minister. I am sorry that your remarks were not able to be placed today, but maybe next Thursday we will get around to your response to this amendment.

Ms Poole: I can be quite brief. I did not want to wait until next week, because I might have forgotten what my answer was.

Mrs Marland has basically asked, "Why would a Liberal bring in this amendment which would tie a landlord's hands even more and make it more difficult for a landlord to make a profit and to run a business?"

When a landlord is setting a rent for a new building, if the landlord knows and is able to take into account the various cost factors—and this would be one—the landlord can set the rents appropriately. So if the landlord is aware that 2% must be put into a capital reserve fund, the landlord can plan for that. Part of the problem we have got into in business in Ontario right now is that operating businesses have had their plans thrown into flux by changes in government legislation. We are starting fresh. Landlords can make that decision.

In view of the fact that the House is now adjourned perhaps it would be more appropriate if we continued this discussion next week.

The Acting Chair (Mrs Y. O'Neill): I would like to just close by saying thank you for your co-operation this afternoon. Mrs Marland has the floor when we resume debate next Thursday morning, and the order of speaking will then be the minister and Ms Poole following.

The standing committee on general government is adjourned until next Thursday morning at 10 am in this room.

The committee adjourned at 1803.

CONTENTS

Thursday 5 December 1991

Rent Control Act, 1991, Bill 121 / **Loi de 1991 sur le contrôle des loyers,** projet de loi 121 . . . . . G-1771

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Marchese, Rosario (Fort York NDP)
Murdoch, Bill (Grey PC)
Poole, Dianne (Eglinton L)
Turnbull, David (York Mills PC)

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Subcommittee report

Chair: Michael A. Brown
Clerk: Deborah Deller

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

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Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325–7400.

Table des matières

La table des matières des séances rapportées dans c numéro se trouve à l'arrière de ce fascicule, ainsi qu'un liste des membres du comité et des autres députés ayan participé.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 12 December 1991

The committee met at 1009 in room 151.

RENT CONTROL ACT, 1991
LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation / Projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: The committee on general government will come to order. The business of the committee is to conduct a clause-by-clause review of Bill 121. I believe we are at a point where we are discussing a Liberal amendment to add section 12.1.

Ms Poole: We had started the discussion of section 12.1 in the last session and I did not have too many more comments to make on it.

Section 12.1 relates to the new complexes that are exempt from most of the provisions of this rent review legislation. They are exempt except for things such as having to give proper notice to tenants of rent increases, and they are exempt for a five-year period.

The Liberal motion had two parts. An earlier part that was discussed was to extend the exemption to a 10-year period to ensure that new buildings would go up, because many landlords and financial institutions were saying that the five-year exemption was not sufficient and that no one would build. The second part of it was to address the tenant concern that there is no capital reserve fund for residential units. It was our feeling that while it is extremely difficult to put a capital reserve fund into the existing system, there should be an opportunity to put it in for new buildings.

This particular amendment would address that concern and create a capital reserve fund for new buildings. The landlord would deposit 2% of the rents into this account every year and once the building came back into the rent review system the landlord would be entitled to spend that money on the upkeep of the building and on major capital repairs.

Just as we closed the previous day, Mrs Marland asked me why the Liberals would bring this type of amendment, which would hamstring landlords even more as far as being able to make a going concern of their business is concerned. I had begun to explain to Mrs Marland that in this scenario the landlord has the prerogative to set his or her rents at a rate at the very beginning of the process and that if the landlord knows this is part of the parcel he will be expected to put into a capital reserve fund, then that should of course be built into the landlord's calculation. From a business point of view, our feeling is that the landlord would know, prior to going into this whole scenario, what the expectations are and set the rents accordingly.

I would be most interested in finding out from the minister whether the government will be supporting this amendment, because we all know that the amendment will have great difficulty in carrying without government support.

Hon Ms Gigantes: We will not be supporting this amendment, and perhaps I could just speak to why.

The subject of how to ensure there is an adequate setting aside of moneys and an adequate devotion of moneys by landlords in Ontario to the basic maintenance of their buildings, including some of the heavy repair and renovation work that needs to be done in a large segment of existing building structures, is a very important question. I think, on the whole, the way to describe our position on that is to say that we are not prepared at this time to put forward measures to regulate the whole question of setting aside capital amounts and ensuring there is a special fund available.

It is one that a lot of attention has been paid to, principally by tenant organizations, and the government has taken the suggestions made by tenant organizations very seriously. We simply are not prepared at this point to put forward proposals to deal with it. That being the case, it would not advance our purposes under this legislation to try to attach measures that would affect the building up of capital accounts in this way for new buildings. It would unbalance the system we are getting out in the legislation, because we are trying to provide within the system that new buildings will not be affected by measures under this legislation.

It is for that reason that we are not prepared at this stage to support this amendment. The purpose of allowing a five-year exemption from the legislation for new buildings is, as we have explained before, to try to accommodate people who are getting into being landlords for the first time, to make sure they have the flexibility to adjust rents over a period of time so they can find what is a practical level of rents to be put into operation once that exemption is finished under this legislation. If we are going to put restrictions on that, it is going to remove the element of flexibility we wish to provide to new building operators.

Ms Poole: I am extremely disappointed to find out that the government will not be supporting this amendment. They talk about accommodation, and the minister referred to accommodating landlords who want to get into the business. By rejecting both portions of the Liberal amendment by saying you will not extend the exemption for a sufficient time to allow the landlord to actually get to the break-even point is going to discourage people from building, but what you have also done by rejecting this amendment is to say that in those few cases where they are building, tenants will not be assured that a capital reserve fund is set up.

As I say, I can understand why the government would not want to go the extra step and set up a province-wide capital reserve fund for existing buildings. It is extremely problematic. It would certainly require a great deal of study to get the right mechanism to do that and there is

concern on all parts whether it could really work. But with new complexes, the same as with condominium legislation where they have a capital reserve fund, I fail to see why the government is not prepared to proceed.

I am quite happy to table this particular amendment until such time as the government has worked out one that is satisfactory to meet its needs in the creation of a capital reserve fund. But to just arbitrarily and out of hand say they are not going to proceed with it, when I think it is a very modest request on the part of tenants—it would set the principle for new buildings that we want to make sure that ongoing maintenance and major capital repairs are put in as they go. I just find it incomprehensible that a government that claims to represent tenants and tenants' interests would reject this amendment, which is a key component of what they are asking for. It just boggles my mind.

The Chair: Further discussion? Seeing none, is it the pleasure of the committee that the Liberal amendment to section 12 carry?

Ms Poole: Mr Chair, could I have a recorded vote?

The committee divided on Ms Poole's motion, which was negatived on the following vote:

Ayes–2

Poole, Turnbull.

Nays–5

Abel, Duignan, Gigantes, Harrington, Marchese.

Section 13:

The Chair: Is there discussion, amendments, questions?

Mr Turnbull: I move that subsection 13(3) be amended by striking out "14, 15, 16, 17 or 18" in the second line and substituting "14, 14.1, 15, 16, 17, 17.1 or 18".

1020

The Chair: Do you wish to speak to that?

Mr Turnbull: I am sorry. You will appreciate, Mr Chairman, that I have not been in this committee for the last few weeks and I am just sitting in today. I have just noticed a note that we do not need this for some reason. Let's move on with the Liberal amendments.

Hon Ms Gigantes: Mr Chair, I would strongly advocate in the same terms that we do need it.

The Chair: That clarifies everything.

Hon Ms Gigantes: If he wants to get more specific, so do I.

Mr Turnbull: I am having great difficulty. I do not think this loudspeaker is working properly.

Hon Ms Gigantes: Oh, yes, we hear you.

Mr Turnbull: No, the loudspeaker, not the microphone.

The Chair: He is having trouble hearing us. We will give him a minute.

Mr Turnbull: It is obviously not necessary.

The Chair: The arguments have been compelling on both sides.

Mr Turnbull: I thought so. I was absolutely impressed.

Hon Ms Gigantes: That is it. I think we are ready for a vote.

Mr Turnbull: There is a Liberal amendment.

Hon Ms Gigantes: Yes, but you put yours first.

Mr Turnbull: No, I have withdrawn it.

Hon Ms Gigantes: Oh, my, that changes everything.

The Chair: Then we have a Liberal motion.

Mr McClelland: I move that subsection 13(3) of the bill, as reprinted to show the amendments proposed by the minister, be amended by inserting after "14" in the second line "14.1."

It is a tidying up clerical motion.

The Chair: The clerk informs me, Mr McClelland, that we will have quite a difficulty dealing with this amendment until the Liberal amendment to add section 14.1 is dealt with.

Mr McClelland: Then let's stand it down.

The Chair: Would we like to stand down section 13 and deal with section 14? Do we have unanimous consent?

Hon Ms Gigantes: Are we standing down all of section 13? There is a government amendment, but that is fine. There is one on subsection 13(7) too.

The Chair: Do you want to deal with those before we go to section 14 or do section 14 and come back to subsection 13(3)?

Hon Ms Gigantes: Mr Chairman, I am going to put it to you, if I could, and to the committee, that we should deal with all of section 13 except 13(3), which has been the subject of the amendment related to section 14. Otherwise, by the time we get to section 14, we will not know where we are at. I believe we will understand the amendment to 13(3) more clearly once we get to 14. However, I think it is pretty essential that we deal with the rest of 13. As you will note, this is the section that sets out the eligible grounds for an application for an above-guideline increase. I think we have to fix that in our minds and in our decision-making before we move to section 14, so I would suggest we pass subsections 13(1) and 13(2), set aside subsection 13(3), as that is the subject of two amendments, and then move into subsection 13(4) and so on.

The Chair: I think we could have agreement to do that. Is it the pleasure of the committee that subsection 13(1) carry? Carried. Subsection 13(2), carried? Carried.

Hon Ms Gigantes: So we stand aside subsection 13(3) and we move to subsection 13 (4.1).

The Chair: Yes.

Hon Ms Gigantes: You will notice that we have proposed an amended section, as printed. It sets out the reasons for the rejection of an application. I think it is fairly straightforward. Committee members may have comments or questions, but it seems to me it is fairly straightforward.

The Chair: Questions, comments or amendments to subsection 13(4.1)? I will give members a little bit of time.

Mr Turnbull: I have a question. Do I understand this correctly, that if there have been increases with respect to previous years that are being carried forward, then that will in some way limit the increases the landlord can get with

respect to those years for such things as taxes and maintenance costs?

Hon Ms Gigantes: No. What it does mean is that where there is a carry-forward, the 2% within the guideline, which is an automatic 2% in most cases where the landlord is applying only the guideline amount as an increase, is included in the amount that has to be considered as an eligible capital expense.

Mr Turnbull: I am sorry; I am having terrible difficulty hearing today.

Hon Ms Gigantes: Part of it is my problem. I am very sorry; I have a cold; my apologies.

The Chair: Mr Turnbull, if you would come one place this way, maybe it would help.

Hon Ms Gigantes: I will try and speak up a bit too.

The Chair: You can tell it is Thursday morning.

Hon Ms Gigantes: I am being informed, Mr Turnbull, that what I have just said is incorrect, that in fact what you are identifying is correct, which is that the effect of what we are saying in this section is that there would be no room for an application for an extraordinary increase once the landlord has an effective application of a roll-through. That is the maximum amount. In other words, if the guideline amount is 6% and in the second year of a roll-through the landlord has approved another 3%, there would not be any room in that second year. The landlord would not be eligible to apply for an extraordinary increase related to taxes or utilities.

1030

Mr Turnbull: Here is the great problem, and I speak with some knowledge of the property industry. If you have a limit which includes taxes and any other costs—hydro, things that are completely outside the control of the landlord—if he is to undertake some repairs to the building in a given year and he is going to spread them over the number of years that are allowed for the carry-forward, he has absolutely no control over hydro increases and tax increases. You may be aware that there is a proposal that market value reassessment might be imposed within Metro. In some cases, this will result in large increases in tax. Hopefully, in other places it may decrease the taxes.

Hon Ms Gigantes: It will principally decrease.

Mr Turnbull: Nevertheless, the potential exists for large increases. This is totally outside the control of the landlord. If the landlord has undertaken repairs, he is being punished by being told: "No, you're a big, bad landlord. You have undertaken those repairs and you've carried it forward. Therefore, we're going to disallow you the extraordinary increase even though your taxes and your hydro are going up," both of which are areas that are directly controlled by government. It seems highly unfair to me.

Hon Ms Gigantes: Could I suggest that committee members take a look at subsection 14(2), which is what we will be relating subsection 13(3) to as far as the member's question is concerned. Subsection 14(2) describes the situation—

Mr Turnbull: You will appreciate I have not sat on this committee for a few weeks, so this is a reprinted version now?

Hon Ms Gigantes: Yes, it is. It is subsection 14(2). Do you have the one with the little arrows on it?

Mr Turnbull: Yes.

Hon Ms Gigantes: If you look at subsection 14(2), we have made provision within operating costs—not within capital costs, but within operating costs—for an application by a landlord where there is an extraordinary increase, as we have where there is an extraordinary decrease, which would, I will say as an aside, be the more likely case in the scenario where we have market value reassessment that affects rental properties. What we would be looking at there, and we have tried to make provision for it in this bill, is the case where in Metropolitan Toronto, if market value reassessment were to come into effect, we would see, as we saw in other cities when market value reassessment was put in effect, that rental properties would experience a decrease in assessment.

But leave that aside. What we look at when we look at an extraordinary increase in operating costs for those itemized matters—namely, municipal taxes, hydro, water and heating—is an increase which is at least 50% more than the percentage set out for that particular element within the guideline. The guideline, as you will recollect, is based on a survey of actual operating costs. It is put together by looking at a rolling average over the last three years. It tends to have a lag reflection, but a reflection nevertheless, of real costs in those operating categories. When we talk, as we do in subsection 13(3), about the capital applications by a landlord, we are talking about a different section of the guideline. We are not talking about operating costs there.

Mr Turnbull: Are you saying it will not affect the cap, then?

Hon Ms Gigantes: What subsection 13(3) does say, as you have accurately identified, is that where the landlord has successfully made an application for an above-guideline increase due to capital expenditures and there is a roll-through—there is the year for which the application is made, there is the first-year roll-through and a second-year roll-through—even if under subsection 14(2) there is an above-50% increase compared to the costs that are within the inflationary and operating section of the guideline, which is a reflection of real costs of operation, during all three years the landlord will not be able to make an application under subsection 14(2) for what we call extraordinary operating cost increases during the period when the landlord has applied for and got up to the 3% cap on capital applications.

We think that is a fair balance, first of all, because the subsection 14(2) extraordinary costs reflect real costs. Anything that is an application under subsection 14(2) for an extraordinary cost has to be 50% above what is a rolling average of the last three years' real costs of landlords in Ontario. So it really is quite extraordinary, and there is already an operating cost element within the guideline that reflects those increases on an average across Ontario.

You are looking at a very extraordinary case in subsection 14(2). The landlord is already getting 3% for operating costs in any case under the guideline. That is a given, at least in the situation now. It is more than 3%; it is close to 4% right now, because our total guideline will be 6% next year.

We feel there is a balance there. In most cases where the landlord has made the application and has got a roll-through up to the 3% above guideline max, that is where this legislation is going to cap it.

Mr Turnbull: I have three problems with that. It has been asserted that the expense component is not an accurate reflection of apartment buildings at the low end of the scale. The average is distorted by the fact that if you have buildings that have been heavily renovated and have had their systems upgraded in the sense of more energy-efficient windows, extra insulation and maybe outsulation put on, new furnaces, those buildings which contribute their statistics to the guideline tend to drag down the amount, whereas the older buildings which are in need of upgrading have much higher operating costs. By taking an average, what we do is distort it. It is like saying the average person in this world, and we know there are about 50% women and 50% men. We really have buildings that can survive quite well on these guidelines and there are others that will do very badly.

The most pressing need is to make sure we have maintenance of the buildings that are in poorer shape. These buildings are often the ones that are in the most difficulty with this kind of approach. That is a problem I have, the fact that the guidelines do not accurately address that. I have to say that the increase in hydro this year is an extraordinary amount and that is something directly within the public utility's control, notwithstanding the fact that the Ontario government has control over this public utility. You are not reflecting that and you are waiting for this roll-through, this rolling average that only slowly reflects itself in reality. If somebody is losing money on a building, you are just going to drive them over the precipice with this kind of approach.

1040

Ms Poole: I apologize for not being here at the beginning of the discussion, since I was speaking in the House. I have a question of clarification for the minister or for Ms Richardson. In the event that a landlord does capital repairs and there is a carry-forward allowed, and the landlord in the meantime, after the order has been given, has extraordinary operating increases that would result in a 3% increase, if the landlord chooses to take that 3% increase, would it be possible to delay the carry-forward for a subsequent year, the capital component?

Hon Ms Gigantes: What would be the purpose?

Ms Poole: The purpose is that if a landlord goes ahead and puts an additional mortgage on the building, obtains financing to do capital repairs and expects that he or she will be allowed a 3% increase over, say, the three-year period, and then in the middle year of that, once the order had been originally given, the landlord has significant extraordinary cost increases that would be over 50%—

Hon Ms Gigantes: Applicable under subsection 14(2).

Ms Poole: Right, applicable under subsection 14(2)—then the landlord is caught between a rock and a hard place. They cannot claim the extraordinary operating plus get the capital expenditures provision, the carry-forward for that year, yet the landlords have based their financial plan on the fact that they would be able to recoup a certain amount in rents over the three-year period for the capital expenditure they put into the building.

What I am asking is, if they have an extraordinary operating increase after there has been an increase awarded for capital expenditures, according to this provision would the landlord still have the capability of delaying that carry-forward for the capital expenditures to a further year?

Hon Ms Gigantes: No, the landlord has to make a choice about the capital expenditure and the eligibility of that expenditure. Once the landlord has received approval of an increase up to 3% on the year of application, which can be further rolled through, or an increase of 3% for the second year, and a further roll-through for an increase of 3% on the third year, the landlord is going to have to live within that. It is the purpose of this legislation to limit all increases above guideline to 3% in any given year.

Ms Poole: I certainly understand that intention because the government has been quite firm about it from the beginning. I am not saying, can they add the 3% on to the 3%? I am aware—

Hon Ms Gigantes: You are asking for another year of roll-through.

Ms Poole: No, I am not asking for another year. They get two years of roll-through but it may not be in the next year.

Hon Ms Gigantes: No.

Ms Poole: Its effect is going to be on the capital expenditure side. The landlords are saying: "First of all, we're getting 60-cent dollars on it if we do a capital expenditure as opposed to if we don't. If I do a capital expenditure, then I won't get the 2% that's allowed in the guideline for capital expenditures."

Hon Ms Gigantes: No. The 2% is there. It just has to be justified.

Ms Poole: It has to be justified.

Hon Ms Gigantes: Normally it is not justified. Where there is an application for up to 3% which is approved, it has to be justified.

Ms Poole: But it has the same force and effect, because the landlord, to get the 3% increase in the capital expenditures, has to justify that he or she has spent the 2% on capital expenditures, which somebody who does not apply for any capital expenditure increases does not have to justify, right?

Hon Ms Gigantes: Correct.

Ms Poole: You only have to justify it if you go. The landlord has to spend that 2% plus the 3% to get the 3%. The person who does not do any capital expenditure does not have to justify anything. They do not have to spend the 2% on capital expenditures.

Hon Ms Gigantes: You've got it.

Ms Poole: The force and effect of this is that landlords feel they are getting 60-cent dollars over and above what they would get if they did not claim for anything, because they automatically get the 2% if they do not do it, so they honestly feel they are going to get back 60-cent dollars.

Hon Ms Gigantes: They may honestly feel that, but that is not the honest situation because the money is there to be spent on capital.

Ms Poole: It has the same force and effect. If you look at a person who is doing capital and you look at a person who is not doing capital, you will find that the person who is not doing any capital can spend that 2% on profit or whatever that person's little heart desires.

Hon Ms Gigantes: No, there is no profit in there. You proved that last week.

Ms Poole: I said they can spend it. But the effect of this is it is going to be one more nail in the coffin. It is going to be one more reason why a landlord would not do the capital expenditures, and that defeats the whole purpose. If you say you are a tenant advocate and you want to protect tenants' rights, then you have to make sure our buildings are not going to fall down. You have to make sure the capital expenditures are done.

If it is economically impossible to recoup their money—they cannot get the financing for it because the financing company says, "You're not going to generate the rents back to pay for it." But then you have the second kicker that if they have an unplanned for, unaccounted for, extraordinary operating cost—with the way taxes and hydro rates and all these things are going up, it is quite likely—then you are saying to that landlord, "We don't care if you had a financial plan over the three years, that this was how you were going to recoup a certain percentage of what you put into capital."

They are going to say: "We don't care. We can't plan. I don't know what the next year is going to bring, and if you can't give me certainty that I have enough money to run my building, to do these capital repairs and to pay for the extraordinary operating, then I am sorry, lady, I'm just not going to do it." That is what they are going to say to you as minister. That is going to defeat the purpose.

With our aging housing stock we have to have the capital repairs done. I do not think anybody, including the members of the government, has argued against that. They have said consistently, "Yes, we do need the repairs done." Yet this amendment, in effect, will ensure that they will not get done. I am not suggesting you toy with your cap, which you have set as sacrosanct and you are not going to touch. What I am saying is you should allow the landlord the ability to roll that amount that he or she would have received for the capital over into a subsequent year. They are still going to get the total three years for capital, but it may not be year one, two and three, it may be year one, three and four, if you see what I mean.

Hon Ms Gigantes: I do see what you mean.

Ms Poole: That is the problem I have with this amendment. I think it is going to have ramifications far beyond what you originally thought.

Hon Ms Gigantes: Whose amendment are you speaking to?

Ms Poole: I am speaking to the government amendment.

Hon Ms Gigantes: That is not what we are dealing with, is it?

The Chair: We are dealing with subsection 13(4.1).

Hon Ms Gigantes: Pardon me. I got confused.

Mr Turnbull: All of this bill is confused.

Ms Poole: For a moment I thought I was in another time warp or something, saying, "Don't tell me I'm arguing an amendment that doesn't exist." Yes, I am arguing the government amendment, but I am saying that what you meant to do with this amendment is to ensure there is not an amount above the cap in any one given year. You have said that has been your principle all the way along, and I can understand that. What I cannot understand is how there is no provision made to prevent the very scenario I just mentioned from occurring, that the landlords simply will not do the capital repairs if they have no security, if they have no guarantee they are going to get the money back. They have to pay back those loans.

The bank is not going to say: "Oh, too bad, you got extraordinary operating this year, and we know you are not going to get the revenues you planned to pay off the capital with, but don't worry about it. We are in this business to be philanthropists, so we don't mind. Just go ahead with what you are doing and we will understand. We will extend your loan for an extra year without penalizing you and not charge you extra interest. There is no problem."

That is not the way it works. The way it works is that financial institutions will only give the money if they can be assured that the money is going to be paid back. The landlords will not spend money on the capital unless the landlords can be assured they are going to recoup, if not all, at least a significant proportion of their costs. By a back door, what this amendment is going to do is ensure that landlords do not make the decision to spend money on their buildings.

Hon Ms Gigantes: I believe that financial institutions and landlords, looking at subsection 14(2), would recognize that there are few cases in which there might be the kind of constrictions that the member has raised as a possibility, an ongoing kind of ethos in which everybody is so paralysed by the fact that within the roll-through period a landlord has to justify every cent allocated under the guideline and above the guideline for capital, that nothing is going to be built in Ontario ever again in rental property. I think this is such an extreme and outlandish proposal. I find it quite ridiculous.

1050

We have said certainty is not only required for landlords in Ontario; there is also a certain social contract with tenants in Ontario implied by this legislation. We have made accommodation on the basis of applications by landlords before this committee saying that a one-year roll-through, for example for large buildings with their capital needs, is not enough. We have extended the period for roll-through to two years, which means that for three years

in a row it is possible under this legislation that tenants in any particular building may be asked to pay up to 3% above guideline. As you know from looking at the projections of what the current guideline would give us, given the economic projections and the inflation projections that we have assumed in the kind of scenarios we looked at last week, these are substantial rent increases we are talking about.

Now we have the proposal that we not only allow for an extra year of roll-through for large buildings, where we accept there may be need for repairs that will extend beyond two years of effective rent increase above guideline, but what is also being requested is that once a landlord has received approval for three years of above-guideline increase for a particular capital undertaking, that landlord, if there is a very extraordinary situation—in which, for example, municipal taxes in year X, which are included in the year X minus one, X minus two, three-year averaging which goes into the guideline, in year X plus one are 50% above what that average would give—shall have the right to say, "Well, I'm going to shift all this above guideline roll-through to another year so that I can make an application under subsection 14(2) for extraordinary operating—not capital—operating costs."

What you are saying is you want to provide enough flexibility for landlords who have approval for up to three years of above-guideline increases of up to 3% in each year to decide which year they are going to use some of the capital within guideline for operating or be able to apply for extra moneys under subsection 14(2). You want to have the situation where there can be an application in the middle of a decision that has not yet been effected in terms of the tenants.

The tenants may have been told that for the next three years they are going to have to pay up to 3% above guideline. Suddenly in year two, you want to allow the landlord to come back in, make another application, and say: "In year two, what I am experiencing is 50% above the average of the last three years of average tax increases. I am going to stop everything about that decision that has been made and that tenants understand and are paying for. We will delay the next two years as far as the above-guideline increase is concerned, and we are going into a new process here. I am going to make a new application under subsection 14(2)."

Administratively, it is just a nightmare if there were as many cases as you suggest, which I disbelieve. But if you were right, administratively, it would be a nightmare. If you are wrong, we are setting up a incredibly complex and uncertain situation for everyone.

I also feel we have made a balanced decision about how we are approaching this and have provided landlords with an extra year of grant roll-through. They can make the decision about the pace at which they undertake capital refurbishings in their building and the pace at which they make applications under this legislation. If they are going for that whole big application which has up to a three-year roll-through, that is a business decision landlords make. They look at the projections for utilities and decide whether the rolling average of the last three years is going to be able to meet their needs under the operating part of the guideline.

They make those decisions. Nobody has forced them to go into the business. They are in the business and they make business decisions. I think the framework we are providing in this legislation around this particular question for the making of business decisions is really quite practical and fair. I suggest to you it is going to work quite nicely.

Mr McClelland: I just want to comment briefly with respect to some of the issues you bring forward with respect to the suggestions and the comments made by Ms Poole.

You mention the concept of a social contract. Surely it is a closed loop. I would argue very fundamentally that part and parcel of the fulfilment of that social contract is an element of certainty for people in business. After all, most landlords are in business and they are making, as you said quite well, business decisions based on projections. The point raised by Mr Turnbull I think is this: To the extent a person makes those decisions based on information available to him and in the context of the climate of the day, your theory holds. To the extent that I would accept your theory—I think you and I recognize that I would have a different point of view—I accept it on the basis of the argument you put forward, and that is all well and good.

When something else is introduced from outside the loop—of financing, of the contract that wants to be established in terms of providing the housing stock and the fulfilment of that—within the context of business decisions, there is an external element that comes in that is unpredictable, that is in all reasonable respects unforeseen.

Hon Ms Gigantes: It is business life.

Mr McClelland: It is business life. There is a difference, though. When a government—your government, to say it very plainly—says, "We're prepared to change rules halfway through the game, after the fact, perhaps another level of government," that quite frankly is not life in terms of fairness. I think what Mr Turnbull and Ms Poole are saying is that there ought to be some flexibility afforded when what people are faced with in the normal course of a business decision is totally unforeseen and unexpected.

Yes, there are things that happen in business that are unforeseen and unexpected. Yes, there are crashes. Yes, there are international events that affect the markets and so on. When there is a certain set of rules established and expectations upon which businessmen and women make decisions and an outside party if you will, government particularly, changes the rules, changes the mix part way through, surely there ought to be a mechanism—apart from the complexities that you argue and that I would argue they are not all that complex—by which that can be addressed, so adjustments can be made to redress the imbalance and the element of unfairness. I think that is what my friends are asking for. To me it seems a totally reasonable request for them to ask for the opportunity to revisit an issue when there is something imposed from without that loop.

1100

Mr Turnbull: I want to revisit what I said before. I am going to preface it by saying to the minister that when the Premier goes around the province and around the world suggesting that your government wants to encourage business and private enterprise in this province, I think you do

him and you do your government a disservice by making statements as you did, "Nobody has forced them to go into the business."

The people went into the business with a set of ground rules that you have fundamentally changed. When you have significant cost factors within the control of government and agencies of government that are driving the costs of operating a business and the government says, "We are not going to allow you to recoup that," then business has to take a long hard look at whether they want to invest in this province. I can tell you, Minister, that I had a very long meeting yesterday evening with two very senior German businesspeople, people who are very influential. I put to them the fact that you are suggesting you would like to somehow impose the German labour model. There was a great deal of scorn for this government's proposal for amendments to the labour law and to suggest that you are somehow trying to—

The Chair: Mr Turnbull, maybe we could direct the conversation more directly to the subject.

Mr Turnbull: This very clause disallows anybody who has undertaken repairs and has applied for an extraordinary increase, when agencies of government put up the cost of hydro, it is proposed, probably by some 44% over the three- or four-year period, and we know that next year the GST will be an added cost.

Interjection.

Mr Turnbull: The minister is saying "No." Are you saying that Hydro is not going to go up by 44% and the GST will not be an applicable cost next year? Is that why you are nodding your head?

Hon Ms Gigantes: I will wait until your comments are finished.

Mr Turnbull: You are nodding your head and I would like to address that immediately. You are saying it is not true. These are costs.

Hon Ms Gigantes: I will try and respond briefly on this. The GST was added to the cost which landlords have been paying during 1991, as you are aware, so the GST is not added next year. In fact, what happens next year, as the GST figures get folded into the guideline, the whole guideline moves up as a result of the GST, which is quite the opposite from what you are saying. There will be no extra amount because of the GST. In fact, there will be an extra allowance for landlords within the guideline because the GST will get reflected for the first time in the guideline for next year.

Mr Turnbull: It is a three-year moving average. Do not tell me that there is going to be adequate reflection of hydro increases, GST and, I emphasize, also market value, if it comes in, in the guidelines at the time people need it. Businesses cannot front that money because a lot of them are not making any money. Yes, they went into it with their eyes open, knowing there was the risk of profit or loss, but they did not expect a government to be so interventionist as this one and to disallow the ability to pass through costs which are generated by governments.

There is no doubt about it. You were not at the hearings, Minister, but it was very clear from all the landlords' groups that they were not adequately able, with the rolling cost average and the guidelines, to reflect the current cost of operating their buildings. Over and over again, we heard that assertion. Are you telling these people who made presentations to us that they are liars?

Hon Ms Gigantes: Are we prepared to vote?

The Chair: No, Ms Poole has a comment.

Mr Turnbull: Do I take it that you are not prepared to answer.

Hon Ms Gigantes: I do find it kind of offensive to have to answer the kind of questions you posed at the end, Mr Turnbull.

Mr Turnbull: You may find it offensive, but it is an important question that people need answered.

Hon Ms Gigantes: We do disagree, you and I, and in fact the parties we represent, on the nature of this legislation. You do not believe we should have the legislation; I do.

Mr Turnbull: I asked you a question. I am not talking about the differences in philosophical base between the NDP and the Conservative Party; I am asking you about the cost factors which are not reflected.

Hon Ms Gigantes: When you look at the business of rental accommodation and it is, among other things, a business, there are some people who will do the business well and there are some people who will have difficulty doing the business well.

Mr Turnbull: Why is that, Minister?

Hon Ms Gigantes: Some people make choices which turn out to be good business choices. You would be better placed, perhaps, than I to explain it because you claim better expertise in this. This government does not look upon this legislation as a method of ensuring that every landlord in Ontario is going to have what that landlord might consider a satisfactory profit. If you take the point of view that the legislation should provide that, then you have taken a point of view we do not share.

Mr Turnbull: That is not at all what I represented. I was saying that when you have costs, and if you are losing money, you are exacerbating the situation. We are not suggesting you give them a guarantee. God forbid that anybody would ever suggest I would propose anybody should get a guaranteed profit. People who go into business take normal commercial risks, and it is very healthy, I would suggest, for business to do this. But when you have interventionist governments that are essentially allowing their agencies to increase costs, like 44% for hydro, and you have a rolling average that does not reflect it at the time of the cost increase, not until some time in the future, then the fact that you are driving these people under is your responsibility as a government. There can be no doubt about it. You have the control over that crown agency that is increasing the cost of hydro.

The municipalities, which potentially will bring in market value assessment and increase taxes in some areas, are creatures of the province. This is how they are set up. This is the whole legal structure. They are creatures of the

province and you tell me it is just tough, that nobody forced them to go into business. That is not a good enough answer.

Ms Poole: Is the minister going to respond or would you like me to make my comments?

The Chair: You have the floor, Ms Poole.

Ms Poole: I would like to respond to a number of comments the minister made. First, she was going on about how nothing will be built ever again in the province, that this was the charge that was being levelled. Perhaps it would help the minister if I clarified once again that we are not talking about building in this section; we are talking about repairing, restoring, renovating and doing necessary capital repairs. That was the reference we made when we were talking about it and that was our concern. We were not talking about new building.

Hon Ms Gigantes: No, nor did I mean to suggest you were. I used "building" in a very loose way to imply construction, renovation and so on. Forgive me if I was not explicit enough on that.

Ms Poole: Thank you for that clarification. The second point was that the minister said the way this has been drafted was to ensure certainty for tenants. I beg to disagree, because I think what creates certainty for the tenants is the 3% cap. What I am proposing would not affect the 3% cap in any given year. If I was suggesting to the minister that it be added on, then perhaps she would have a valid point that it creates uncertainty for tenants.

She also mentioned that we wanted an extra year of rollover. Again, it misses the point. There is no extra year of rollover. The rollovers would be the same the landlord would be entitled to that the current legislation is proposing. It still says that the landlord would have the first year of returns on the rents because of capital expenditure and that there be two additional years where there would be a rollover of the costs.

We are not saying there would be an extra year of rollover; we are just asking if it is really fair to eliminate a year of rollover, particularly when the landlord cannot control those extraordinary operating costs. Do not forget that the extraordinary operating costs we are talking about are over and above what is reflected in the guideline. Talking about the guideline in this regard just confuses the issue. We are talking about when there is an application for extraordinary operating over and above the guideline, and there are specific criteria that have to be met.

1110

That was the other comment I wanted to make. The minister used terminology such as, "The landlord may choose," and, "The landlord may make a decision." These decisions are beyond the landlord's control. The only decision the landlord can honestly make is whether he or she will do capital repairs. My point is that you are taking that choice away, that you are taking the choice away from tenants who want to live in a building fit for human habitation by saying, "We are going to put in one more restriction." That will mean a landlord will not choose to do capital repairs. The landlord will choose the certainty of saying, "I know hydro's going up significantly and I know that if market value assessment comes in in the city of Toronto, we are going to have major tax implications," or if they know the Ministry of Revenue has taken their building under review because they did capital repairs six or seven years ago.

This was the catch-22 situation we were in: The landlord would do capital repairs. The Ministry of Revenue would go in and there would be a rent increase because of it. The Ministry of Revenue would say, "Your rents have increased because you did the capital repairs, therefore we are going to increase your taxes." Then the tenants were getting a double whammy, first the increase for the capital repairs and then the increase for the taxes. What I am saying now is that the current legislation does not make it possible for that to happen, and that is very good for tenants in many ways. This current amendment is going to make it impossible for the capital repairs to be done. I should not say "impossible"; I should say "make it extremely difficult."

There are still landlords, I am sure, who will do capital repairs, particularly if they have owned the buildings for an extensive period of time and do not have significant mortgaging costs. Then there is an allowance within the existing rents that the landlord could put money into the building. But in all too many cases the landlord is very heavily mortgaged and anything additional would be enough to break the back.

That is what we do not want to see, because in the final analysis if the landlord has to choose between paying the hydro bills, the tax bills and all this kind of stuff and putting it into capital repairs, I think we both know what that landlord is going to—so-called—choose to do.

It does not come down to good business choices; it comes down to the reality of operating a building in the years 1991 and 1992 when the properties have been devalued to begin with. That again is not a reflection of a business decision, because properties generally have been devalued. Apartment buildings have devalued more than other properties because of government legislation. This was not a matter of poor business decisions on the part of landlords. They are reacting to events that have imposed themselves upon their particular workplace scenario.

I think it comes from a feeling that landlords are out there making pots of money. Maybe there are some making pots of money, but that is not what the Royal LePage survey showed a number of years ago. It showed that the profits landlords were realizing from their investments were quite modest, more modest than buying Canada savings bonds. Surely, in this climate, would it not be a little safer and a lot less hassle to purchase Canada savings bonds? If you say that is a poor business decision, I guess the government has the right to make that accusation, but I do not think that is what it comes down to. I think it comes down to external forces coming in and being put on to the buildings, on to the landlords. We have to try to reach a compromise, to combine two things: to ensure the landlord can operate that building in a viable way and to ensure tenants have stability and protection.

I am not suggesting we radically alter the cap. What I am suggesting is to allow that year of carry-forward to continue in a future year if the landlord cannot take it in a

given year because of extraordinary operating costs, and I do not think that is an unreasonable position.

Hon Ms Gigantes: Both Mr Turnbull and Ms Poole have talked about market value reassessment as if the effect of market value reassessment in Metro Toronto would be to increase taxes on rental properties. Quite the opposite: the experience in every other regional municipality—

Ms Poole: On a point of order, Mr Chair: A clarification: I was talking about the city of Toronto—

The Chair: No, that is not a point of order.

Ms Poole: Mr Turnbull was talking about North York. We were not talking about all of Metro, we were talking about our particular constituencies.

The Chair: That is not a point of order, Ms Poole.

Ms Poole: But it was a valuable contribution.

The Chair: It might be.

Hon Ms Gigantes: The experience in all the other areas of Ontario where market value reassessment has been implemented—it has been implemented in all other regional municipalities besides Metro Toronto—has been that rental property will, on the average, decrease in terms of property tax. In fact, the provision within the bill that relates to the decrease in operating costs for which tenants can apply is likely only ever to be used by tenants in Metro Toronto if there is market value reassessment. Whatever you think of that notion, the effect of it is likely to open up the possibility for tenants in Metro Toronto to apply for a decrease in their rents because of an extraordinary decrease in operating costs. So let's make that clear.

Ms Poole is suggesting that because, when landlords have a roll-through granted them, we are asking that the 2% for capital within guideline be justified and whatever over guideline be justified, we are putting landlords in the situation where they are going to behave in such a way that we are going to have a situation where lots of apartments in Ontario will not be fit for human habitation, I think was the phrase she used.

I think the rhetoric around this one has gone beyond all bounds. She suggested we have put landlords in a position where the only choice they can make is whether to do a capital renovation or not. That is just not the case. Landlords have lots of decisions to make. They have the decisions about which things need renovation, which things need renovation first, how much of the renovation gets done in a particular application and how the renovation gets done. There is an enormous variety of choices landlords make and if landlords, knowing the predictions about municipal tax rates, feel they are not going to be adequately reflected in the guideline for next year or the year after because there is going to be such a rapid increase in municipal taxation rates or utility rates, then landlords will make their decisions about which capital renovations to undertake, at what pace, in what manner, according to that.

There is certainty around this. There is a framework within which landlords know they can undertake work and have a certain amount of cost on an annual basis passed through to the rents of their tenants. That is the framework. Tenants, on the other hand, have some degree of certainty about what the outside limits are going to be, not only how much, but for how long and in which period. To my mind, that is a pretty fair balance, particularly considering that we have added an extra year of roll-through in the amendments before the committee.

1120

Mr Turnbull: Minister, I am going to tell you how market value is arrived at when doing an appraisal on a building, for your edification. When you are talking about market value with respect to a private house, it is established by a set of values that buildings have achieved in a given area, within a certain time frame, and it is adjusted according to the size of the building and the size of the lot. However, when you do an appraisal on a commercial property, particularly an apartment building, an apartment building's value is driven by the incomes from that building. I will draw for you a mental picture of two identical buildings, and I wish the minister would pay attention so that she might understand what I am talking about.

Hon Ms Gigantes: Don't be rude.

The Chair: Order.

Mr Turnbull: I have two identical buildings next door to each other, both built by the same builder in the same year. One of them has been sold twice over the period of 25 or 30 years and has maybe been renovated substantially and the rents have gone up in that building significantly and one higher than the one that has not been renovated. Seen from the tenants' point of view, they have already had the indignity of having significant rental increases, but they have had value in the sense that the building has been renovated, while the building next door has not had these sorts of magnitudes of increases.

With market value reassessment, the value of the building that already has the high rents will get the highest increases. It is conceivable that the building which does not have the renovations may get a decrease because we know tenants are being very unfairly treated with respect to property taxes. But there is a group of tenants and landlords who have been arguing for a long time over the inequity of market value reassessment within Metro because of the peculiarities of land values in Metro.

For the minister to suggest that landlords are not going to see significant increases in buildings where there has been a lot of renovation, particularly buildings that were built prior to 1970 when the assessment rolls were frozen within Metro, particularly in North York and the city of Toronto, is just patently untrue. The assertion that landlords have the option as to what renovations need to be done and when, Minister, read your own bill and you will find that if a work order is put on a building, the landlord has no option but to address that. Your bill is going to encourage the fact that landlords will tend to wait until the end of the year because they must keep that amount of money to see if there is any work order or any claims for work put on that building. Instead of being proactive, landlords are being encouraged by this bill, believe it or not, to simply be reactive. You obviously have not spoken to landlords, because they have said that very clearly.

Ms Poole: I think the minister is going to regret that she brought this issue into the conversation, because when she said the studies have clearly shown that in Metro Toronto market value assessment is going to benefit tenants, she has shown an appalling ignorance of the facts. I expected better of this minister, who has said that she has been a tenant advocate for years. If it is true that it is going to benefit tenants, why is the Federation of Metro Tenants' Associations actively lobbying against it? Why have they gone to rallies and spoken against it? Why have they issued briefs on it and why are they saying that market value assessment is going to be very detrimental to tenants in cities such as Toronto and North York?

Furthermore, several years ago, the city of Toronto commissioned a report specifically on the impact on tenants. The report was by Enid Slack and I am sure your ministry officials would be more than happy to apprise you of the content. It was very well publicized at the time and it said very clearly that it would have a very negative impact on tenants. When Mr Turnbull and I are quite dumfounded by your remarks, that is why. The facts are clearly quite the opposite of what you have today portrayed.

When you talk about rhetoric going beyond all bounds, this is the NDP government that when it was in opposition talked about 150% rent increases and 100% rent increases. They carefully ignored the fact it was a very minuscule number of units?—what was it, 34 units—in Ontario that had this type of rent increase, instead of addressing the problem. The problem was that in certain circumstances there was an abuse of the rules, and instead of dealing with that, they gave us extravagant rhetoric which inflamed tenants and compounded the problem.

I categorically say that when the minister talks about rhetoric going beyond all bounds, if there was anything that went beyond bounds, we learned it from your government. There was hot air and bombast and inflammatory language. That is what I put up with for three years and I was a tenant advocate. I put up with that kind of nonsense for three years from the NDP opposition. It was absolutely ludicrous. I think we have been quite restrained.

I could go on and on about some of the things you have said and the fact you talk about notions. We are not talking about notions; we are talking about facts. The facts are as they have been portrayed here this morning and I am not exaggerating. We have a representative in the room at this moment who works very closely with the FMTA. You can check with her afterwards. You can check with your ministry officials. The facts speak for themselves.

If this minister truly wants to be proactive on ensuring that tenants pay less property tax, she should be working with the Minister of Revenue and getting the categorization of property taxes paid by tenants changed. That is at the root of the problem and that is why tenants do not realize that 25% to 30% or more of their rents go to property taxes. It is a point of real reform that I hope we would agree on that needs to be addressed.

But to say that this is all within a landlord's decision and that landlords are actually going to benefit and tenants are going to benefit from changes in taxation policy regarding market value assessment is simply to ignore the facts. If that comes in, what you are going to find is it is going to be absolutely devastating in Toronto and in the city of North York and there will be no recourse. Your legislation is so rigid that there are going to be landlords who simply cannot pay the taxes. The city of Toronto does not want to take over ownership of these buildings. It is the last one that wants to do it. Maybe your ministry does—

The Chair: I have allowed a lot of latitude, but we could maybe speak more directly to subsection 13(4.1). I know all parties have alluded to this particular subject.

Ms Poole: You can tell we feel quite passionately about this particular issue. I think enough has been said. I will finish my comments at this time.

Mrs Marland: I have a great deal of concern with this amendment by the government to its own legislation. A few moments ago, the minister said something about the landlords will do their capital renovations at what pace, in what manner they choose, when we are talking about the fact that in the second year they will not be in a position to take on any new work because they may have the balance of the previous year's work still to pay for out of their allowance for capital renovations.

You said maybe hydro rates will go up. Some of these things are not maybes in terms of property ownership for any of us. If there is one thing we are absolutely sure of since the amendments to the Power Corporation Act by this socialist government, we know hydro rates are going to go up because we know the amendments to the Power Corporation Act gave the flexibility to the Bob Rae socialists to use Hydro as a cash cow to pay for other government programs. We know that. There is no discussion in Ontario for people who own properties as to whether or not hydro is going up. I think we have already been told that next year it is 14.7%. That is whether you are in a house or you are a landlord with an apartment.

1130

Having some of that information as a given, we have to look very realistically at this section and see what it is we are talking about here. I think the comments that have been made so far—it is like every other discussion we have had on this bill for over a month—are that it is a matter that the minister speaks, we speak, occasionally the government members speak, and nothing changes.

We are trying to get the truth out about what the impact of Bill 121 will be on the tenants in this province who are dependent on rental accommodation, these same tenants that this minister refers to as though they are all tenants by choice when she talks about the fact that a lot of her friends prefer to rent accommodation rather than rent money, a pretty profound statement by the Minister of Housing actually.

There are people who want to invest in their own equity by purchasing their home, their accommodation, whether it is a house or an apartment in a condominium complex. But with this legislation, the people for whom that will never be a choice, the people who for ever have to live in rental accommodation and in fact those people who have owned their own homes and have been taxed out of them—the minister likes to refer to the opposition members as naïve, so I think it is fair ball for me to use that word in return.

When the minister said last week to the member for Dufferin-Peel in response to one of his questions something about, "I don't think this member could be so naïve as to" whatever—I have not found it yet in last week's Hansard but I know it is there—I say to this minister, surely you cannot be so naïve as to think there are people in rental accommodation today who do not understand what it is you are doing to them with this bill and subsequently what it is you are doing to them in their living environment.

You cannot be so naïve as not to understand that there are people for whom living in an apartment is not a choice; it is a necessity. Either they are not in a position to buy a home of their own, or as I said a moment ago, they have been in a home, have experienced home ownership, but through the increases in property taxes, in many cases now even older couples who finally have their mortgage paid off cannot stay in their residence because of the cost of taxes.

If any of these government members campaigned on doorsteps as I did only a year ago, they would have heard, as I heard, their concerns about the lack of availability of rental accommodation. They were having to make the choice of giving up their home, because their husband had died and they were now on a smaller fixed income and could not even pay the property taxes on the house, so they were looking for somewhere to live.

Because of the initiatives of this government, and I may dare suggest the previous government, the availability of new rental units for these people, who have been in their homes and now have to search out rental accommodation, is minimal if not nonexistent. Now here we are this morning talking about this glorious piece of garbage, Bill 121, and we are dealing with yet another section that is going to penalize the owner of rental property who in turn ends up penalizing the tenant.

If you do not think a tenant is not penalized when his living environment deteriorates because, as in subsection 13(4.1), we are saying, "It's too bad if you need to spend more than a certain amount that is allowable to keep my environment in my apartment building what I would choose it to be." When we are looking at this section and at the person who owns the property, I think one of the biggest misnomers is the word "landlord," especially in Ontario in 1991. When we are talking about landlords, any of you of British background might well be able to picture what a lord is, and a lord of land. When we talk about landlords, the picture is of the wealthy gentry in medieval England who not only owned a few buildings; they owned their country estates, the entire village, the church, the farms, everything that involved—

The Chair: Mrs Marland, perhaps a little bit more germanely to subsection 13(4.1).

Mr Abel: We are getting a history lesson.

Mrs Y. O'Neill: It is very educational.

Mrs Marland: Mr Chairman, I think this is very germane to this legislation—

The Chair: I thought you would.

Mrs Marland: —which is dealing with landlords and tenants in this province.

Ms Poole: On a point of order, Mr Chair: As far as whether Mrs Marland is talking about something relevant is concerned, I will say that due to Mr Mammoliti's comments last week, we spent a major portion of the afternoon talking about Robin Hood and Friar Tuck.

The Chair: No, Ms Poole, it is not a point of order.

Ms Poole: This is far more relevant.

The Chair: Mrs Marland will speak directly to subsection 13(4.1).

Mrs Marland: Mr Chairman, let me say this to you: You were fortunate last week that you were not able to be at this committee.

The Chair: I would not characterize it that way, Mrs Marland.

1140

Mrs Marland: The member for Eglinton, Ms Poole, is absolutely right. When you have nothing better to do, you could read the Hansard from last week, where we were subjected to a tirade from Mr Mammoliti about Robin Hood and Friar Truck—Tuck—and all his merry men.

Mr Winninger: It is fire truck. That is what it was.

The Chair: I am sorry I missed it.

Mrs Y. O'Neill: You just do not know what you missed.

The Chair: To subsection 13(4.1), Mrs Marland.

Mrs Marland: You certainly do not know what you missed, and I think if a government member of this committee is allowed to go back to Robin Hood, I am certainly allowed to go back to the connotations—

Hon Ms Gigantes: But he went so much faster.

Mrs Marland: I am allowed to refer to the connotations of "landlord." I think it is too bad that when we are talking about subsection 13(4.1), we do not think about the landlord to whom Diane Francis refers. I have a column here written by Diane Francis in the Financial Post, October 14, 1991.

The Chair: About subsection 13(4.1).

Mrs Marland: It is certainly about subsection 13(4.1), because it is going to cause more and more examples of what Diane Francis refers to in her article. In this article she refers to someone who can be described as a landlord. I want to tell you who this person is, because 13(4.1) is going to create many more individuals like Tony Vivilecchia. According to Diane Francis, this gentleman and his five children have been evicted from their home as of Labour Day weekend. "His wife, Esther, was hospitalized after the shock of losing everything. They have lost their life's savings and are now on welfare.

"'My wife is sick and after 30 years of all this work I've never seen anything like this,' says Tony. 'I wanted to keep some money and invest and make something for my kids, then these socialists or communists or what you call it come along. I'm going to sue the government. I've got to find a lawyer.'"

This man came to Ontario from Italy with his family in 1959. He worked extremely hard and built himself a tiny nest egg through his hard work and hard savings. This is the kind of landlord for whom this bill and this section will

contribute to their downfall. We can have government members of this committee who think it is humorous to talk about Robin Hood or about the fact, as Mr Mammoliti has any number of times in this committee, that he does not care how much money landlords have to pull out of their pockets to compensate for the operation of their buildings. With this regressive legislation, and particularly this section we are talking about this morning, we are not talking about options for these landlords; we are talking about what will be a fact of life for them.

I want to get to this, by the way: I will give you notice of this now, Mr Chairman. Two or I think perhaps three meetings ago I asked the minister what the job description was for the rent officers who will be interpreting subsection 13(4.1) and every other section of this disgusting piece of legislation.

The Chair: Just to help me out for a minute, are you about to make a motion?

Mrs Marland: I am in order, Mr Chair.

The Chair: I am just trying to understand where we are at in this.

Mrs Marland: Is there some difficulty in understanding where I am at?

Hon Ms Gigantes: Yes.

The Chair: Yes, as far as the procedure goes. If you are giving me notice about something that does not relate to subsection 13(4.1), I would be pleased to have that.

Mrs Marland: No, I am giving you notice that when I asked the question three meetings ago about who a rent officer would be, what kind of training a rent officer would have, what the prerequisites for their eligibility to apply for those jobs would be, we had some very interesting non-answers. Now in fairness, last week on an undated letter from Evelyn Gigantes, the minister, to you as Chairman—I have no idea of the date of this letter being circulated to you as Chairman of the committee.

Hon Ms Gigantes: On a point of order, Mr Chairman: That document was tabled with the committee. I noted that it was tabled with the committee at the last meeting, if that is helpful to Mrs Marland.

Mrs Marland: I am not discussing when it was tabled. I was here—

The Chair: Mrs Marland, I would like to deal with this particular question, but I would prefer to deal with this particular question after a discussion of 13(4.1). I think procedurally that would be more helpful to us.

Mrs Marland: That is fine. Section 13 is dependent on rent officers. It says: "A landlord may apply to a chief rent officer." I am simply telling you that on an undated letter from the minister, attached to which is a package of material about who rent officers might be and what their training might be, this was tabled with the committee last week. I am simply saying the letter is undated. I am looking forward later on today to asking the minister questions pertaining to this document that was tabled in response to my question of three weeks ago.

In dealing with subsection 13(4.1) and being realistic about the fact that there are going to be a whole lot of areas over which these people who own property will have no control under this legislation, I think it is very important for the minister to be upfront with the tenants in this province. When she talks about market value assessment, or for that matter any of us talk about any reassessment of property—that can happen for any number of reasons. It does not have to be because the municipality has invoked section 63 of the Assessment Act and therefore requested market value assessment.

Coming from a municipality that has had market value assessment for the last, I guess we are into about our seventh year in the city of Mississauga with market value assessment, I certainly have some understanding about the impact of what market value assessment means.

What we have to realize in this legislation is that if an apartment building assessment changes, two different things happen. If an apartment building's assessment is reduced for any reason—maybe they built a major noise generator beside it. It may be some kind of industrial development or redevelopment. It may be a new bypass, some kind of highway. Perish the thought, but in the city of Mississauga it may be an additional runway at Pearson International Airport. There are many factors that control the value of your property, and because of that, if something changes, you are entitled to a reduction in your assessment if you can prove to the Assessment Review Board that the pleasure and enjoyment of your property has been impacted by a change in the environment around it.

If we have a situation where an apartment building receives a reduced assessment for any number of the eligible reasons that an Assessment Review Board panel can make judgement on, obviously it follows that the taxes are also reduced. Under this bill in front of us today, it means that if the taxes go down, so does the rent, because those tenants can apply for a decrease. Minister, you tell me if this legislation does not allow tenants to apply for a decrease where the taxes go down.

1150

Hon Ms Gigantes: Under subsection 14(2), if you take a look at it, Ms Marland, you will see that there has to be a threshold of a greater than 50% below the guideline change.

Mrs Marland: Did you say 14(2)?

Hon Ms Gigantes: Actually, that is the increase section. Where is our decrease section?

Mrs Marland: That is the increase section?

Hon Ms Gigantes: Yes, that is right, but the same thing works in reverse for the decrease section.

Mrs Marland: I am encouraged that you are not much more familiar with the bill than I am.

Hon Ms Gigantes: Section 24.

Mrs Marland: So 14(2) deals with an increase, and I am talking about a decrease. Are you now directing me to another section, Minister?

Hon Ms Gigantes: I am sorry, I missed that, Mrs Marland.

Mrs Marland: To which section are you directing me now?

The Chair: It is subsection 24(2), I believe, Minister, as printed.

Hon Ms Gigantes: Yes; subsection 24(2) on page 29 of the reprinted bill. There is nothing automatic; there is a threshold. "A decrease in operating costs for municipal taxes, hydro, water or heating for the whole residential complex is extraordinary"—in other words, subject to a tenant application—"if the decrease, expressed as a percentage, is at least 50 per cent less than the percentage set out in the corresponding operating cost category recognized in the table referred to in subsection 12(1) for that item"; in other words, the guideline table. So there is a threshold. Once there is a decrease in assessment on a particular building, the tenants are eligible to apply. I just wanted to draw that to your attention.

Mrs Marland: Okay. So it is not automatic, but what is your answer to my question where I say—

The Chair: Please continue.

Mrs Marland: It is no good my talking to the minister. She is not able to listen at the moment, so I waiting till she listens.

The Chair: Mrs Marland, just put your questions, please.

Mrs Marland: But in fairness, how can I ask the minister a question if she cannot hear the question?

Hon Ms Gigantes: I am all attention.

Mrs Marland: Your answer was that it is not automatic, Minister. Okay. Are you saying then that a tenant cannot apply for a decrease if the assessment for the building is reduced and it fits into this section on page 29 to which you referred me?

Hon Ms Gigantes: The tenant can apply, but the application will be judged ineligible unless the conditions set out in that section are met. We are discussing here, as I understand it, the matter of the change in assessment of a particular building because of whatever circumstances. We are not talking about the market value reassessment situation, if I understand the thread you are following here.

Mrs Marland: It could be because of market value, but I am just speaking on the subject of any assessment changes.

Hon Ms Gigantes: Right; that is what I understood. The circumstances you are referring to then would be governed by section 24.

Mrs Marland: Right. If the tenant applies for a reduction and all of these qualifiers to which you have just referred are met, then is it true there may be a reduction in the rent?

Hon Ms Gigantes: That is why it is there.

Mrs Marland: That is right.

Hon Ms Gigantes: To provide for that.

Mrs Marland: That is the point I am making. However, can you take me to a section in this bill where, if the taxes go up as a result of a reassessment, the opposite is possible, beyond—I think it is a 3% cap on the upside, that the property owner is entitled to?

Hon Ms Gigantes: No, the 3% cap has to do with capital expenditures and extraordinary operating costs.

The Chair: Sorry, Minister. I do not think we heard you.

Hon Ms Gigantes: No, and I did not provide a reference: subsection 14(2).

Mrs Marland: If there is an increase in assessment, no matter what the percentage of the increase on the assessment, the property owner is capped at a 3% increase.

Hon Ms Gigantes: No.

Mrs Marland: Your staff is nodding yes.

Hon Ms Gigantes: I am going to object to one part of what you are saying. Ms Richardson is agreeing with the other part of what you are saying. She is agreeing that there is a cap, but there has to be a 50% difference between the level of, for example, taxes and the increase in taxes—let's talk about increases, to be more accurate here. There has to be a greater than 50% difference between the percentage of the cost of taxes paid by the landlord as a portion of operating costs and the percentage of the operating guideline which is attributable to taxes.

Mrs Marland: Could we agree on this? You have made the reference to two sections in the bill, one that deals with eligible decreases and one that deals with eligible increases, and they both seem to pivot around this 50% and all the other conditions. I can read that and I agree with you that is what it says, but could you also agree that in the case of meeting the requirements under "decreases" the tenant can apply for a decrease, and if those conditions are met, a decrease is possible. On the other end, if the conditions are met for the property owner, an increase is also possible.

Hon Ms Gigantes: Capped.

Mrs Marland: Right.

Hon Ms Gigantes: And that is your point.

Mrs Marland: There is a cap on the increase of 3%, but I am sure there is no cap on the amount of decrease that can be rendered as a result of a decision by a rent officer in this situation—or maybe there is. Maybe you can tell me that.

Hon Ms Gigantes: No. There is no such cap, and the likelihood of a similar kind of level ever being reached is just about nil. If we assume that our economy is going to survive at all, the pattern we have seen is not for decreases in these costs.

You and other members of the opposition argued for days of hearings, for months of hearings, about the relentless increase in the costs paid by landlords, and I tend to accept that view. The government accepts that view. These costs do not seem ever to go down significantly. There may be some components of the guideline which, over the next few years, might not increase—might even decrease, in a mild form—but we expect most components of that operating guideline to increase in cost, so the number of applications by tenants, aside from those cases under market value assessment where the values, the tax levels would go down—I do not expect that in all cases, but certainly there would be cases.

1200

Mrs Marland: We have two parties here in a contract. On the one hand, through this legislation, when we have these two parties in this contract, one who owns property and one who needs to rent that property, we say there is no limit to how much your rent can go down but there is a 3% limit on how much your rent can go up under the same circumstances. We are talking about two sections of the bill that have the same game rules until you get to the percentages. On the one hand, we are saying it is okay not to have a cap on reductions, because we are assuming that will never be the case, but on the other hand, we are saying that in the case of an increase we are going to cap the increase at 3%, no matter what the costs to keep that building safe.

Let's talk about the kind of thing that qualifies for this 3% cap. We are talking about capital renovations, and when we are talking about capital renovations, as I keep saying, we may be talking about areas that are critical to the function and safety of that building. If it happens to be a building with external balconies and those balconies become unsafe or the balcony railings become unsafe, or there is an underground garage whose roof structure becomes unsafe—there are so many. I am neither a mechanical nor a structural engineer, but I have a little common sense about how buildings operate and need to be kept up. I also understand that even with our own house, there are areas of safety that are affected if we do not have enough capital to protect the structural integrity and safety of the building.

If you do not want to talk about those kinds of areas, which are the responsibility of the property owner, and are saying, "You've got your annual 2% you can spend on that, and if you have to make a major investment one year, we are giving you two years to pay for it," this is wonderful; this is whoopee time. What we are saying here is, "I know what it's going to cost this year and I know it's above the allowance and my ability to pay, but I've got two years to pay for it." Then what happens in the second year when I have something else that is also very major? The second year I'm not even eligible for the regular 2% annual allowance. I not get the 2% of the regular allowance for stuff like painting walls or appliance replacement or hardware repair.

I cannot imagine anything as regressive as this particular section in terms of maintaining the environment of that building from a pride point of view: "That's my house. That's where I live. I don't want my family and friends visiting me in an apartment building where they can't replace appliances because we're into this second year of paying off a major capital renovation." It must be great to invite your family over for Thanksgiving dinner and not be able to cook it because your stove has not been repaired or replaced when it needed to be.

We can collectively talk about some major costs for which the property owner should be eligible, but if it is in the second year of the capital renovation, he is not.

The Chair: I think at this point it would be useful to adjourn those comments. We will pick up there this afternoon.

Committee members, we have one small housekeeping item I would like to deal with this afternoon. That is the adoption of the subcommittee report. I do not think that should be a problem if we do that directly at 3:30 and then continue the clause-by-clause consideration of this bill.

The committee recessed at 1206.

AFTERNOON SITTING

The committee resumed at 1551.

SUBCOMMITTEE REPORT

The Chair: The first thing we should deal with this afternoon is the report of the subcommittee, which I believe all members have a copy of. The meeting took place on December 3. As members will recall, the meeting had some urgency, as the House leaders had to know at 8 o'clock the next morning what the intentions of this committee were. I therefore, after the meeting and receiving unanimous agreement among all parties, sent a letter which was approved by all members of the subcommittee to Mr Cooke, the government House leader. You have that letter before you. It actually went to all the House leaders and all the whips. What I am looking for this afternoon is for the committee to adopt the report of the subcommittee.

Mrs Marland: Did Mr Tilson sit on this subcommittee?

The Chair: Just for your information, Mr Turnbull represented your caucus. Minister?

Hon Ms Gigantes: Maybe I will wait until our representative on the subcommittee comes in.

The Chair: I see him.

Hon Ms Gigantes: I was going to speak to a counterproposal to the report of the subcommittee. As I understand it, the House leaders have been meeting directly on the question of how to schedule time with this committee to finish dealing with Bill 121. My understanding is that it would probably be more useful if the committee tabled the report of the subcommittee for the moment in the hopes that there will be an agreement worked out with the House leaders which will provide us with adequate time, but enable us to do the work more expeditiously than the representatives on the subcommittee had contemplated at the meeting on December 3.

The Chair: Thank you, minister. I point out just for clarification that this has happened: The letter has been sent under my name representing all of you indicating this would happen this way. We have not received any return correspondence from the government House leader or any of the other House leaders for that matter. I see no problem in continuing and therefore, I will recognize Ms Poole.

Ms Poole: With reference to the minister's comments, I reiterate that all three caucuses were represented at the meeting and there was considerable discussion about the amount of time that was adequate in order to deal with the remainder of Bill 121. It was pointed out at that meeting that there were 130 clauses, there were some 200 amendments in total by the three caucuses and that it is extremely complex legislation and, to be quite frank, extremely controversial legislation.

It was the unanimous agreement of all three representatives at the meeting that if three weeks were allocated during the intersession to complete the clause-by-clause, then all parties would also agree that we would guarantee that the clause-by-clause would be completed in that time. It was made clear at that meeting that anything less than the three weeks would mean that the agreement was off and all three caucuses would not agree that the clause-by-clause be completed in less than three weeks.

What we have here is a very expeditious agreement and I do not see why this time cannot be allocated. I have talked to our House leader. The Liberal House leader has indicated that, looking at the complexity and the longevity of the legislation and the number of amendments, three weeks is quite reasonable, and certainly that has been the position he has been taking to the House leaders' meeting.

I think we as a committee should stand by the agreement raised at the subcommittee meeting and agreed to by all parties. If we do not, my fear is that this committee is going to continue to be fairly ineffectual in getting through, and I would like to see more progress made on this bill. It is not going to delay the passage of this bill by one day to have those three weeks in the intersession. It has obviously become clear to the government that there is no way it can keep to the original timetable. The original timetable was just incredibly unrealistic, to go through clause-by-clause in a month and get third reading when we are only meeting for four and one half hours every Thursday. I think that has been acknowledged.

The regulations are going to be worked upon while we are in the intersession. That was always the plan and that is still the plan. The government never intended to proclaim the bill until late spring. That is also a fact. So we are not delaying this legislation at all by having a thorough examination in clause-by-clause. My feeling is that right now we have give and take by both sides. The government caucus wanted to do it more quickly. The Conservative caucus wanted to do it more slowly. The Liberal caucus just wanted to get it over with. Sorry, I did not really say that; we just wanted to get it done expeditiously and productively, and we finally have an agreement. I commend the other members of the steering committee for giving and accommodating.

So why on earth would we reopen the matter when the Chair, subject to the authority of the steering committee, has already put our committee on the record as requesting this time? I see no reason to start messing with what I think is a very workable agreement and getting the job done.

The Chair: Before we go further, I would just like to clarify that this was a subcommittee meeting that was unanimously agreed to. It was a request to the House leaders. The House leaders obviously can deal with this in any way they want. What we are really asking the committee to affirm is that this was the agreement that was reached unanimously. The House leaders obviously can allocate the time as they will, but you put the Chair in a somewhat difficult position if we do not adopt a request that I have already signed a letter for.

Mr Winninger: I beg to differ with the position taken by Ms Poole. With respect, I think it is unreasonable to make these kinds of demands on the House leaders who, combined, face quite a challenge in organizing valuable committee time. The public should know that committee

time is precious and that this particular bill has already received quite a high degree of debate and will certainly enjoy further debate, but I would respectfully submit that a week's time is certainly enough to complete the clause-by-clause, and that will enable members of this committee who have to serve on other committees as well to be scheduled into those committees so that other necessary legislation can be examined.

These little sidebar agreements may be very nice, but they do not solve the challenge that the House leaders face in organizing committee time, and certainly it does not acknowledge the extreme scrutiny the clauses of this bill have already received and will receive in January. So I beg to differ with Ms Poole, with respect. I think a week is perfectly adequate.

1600

The Chair: Thank you, Mr Winninger, but that is really not the subject of debate. The debate is really centred around whether we make this request. The subcommittee instructed the Chair to make this request. It was approved by all here, and it was just a request. You make legitimate points, but I am not sure they are directly relevant.

Mr Winninger: Given that you have commented on what I had to say, I would only add that I would endorse that we not move this request and that the request be amended to one week. I think the committee has the power to do that.

Mrs Marland: If this was not so serious it would be almost laughable, because here we have a member who has been in the House now for 16 months and does not yet understand a little bit, just a little bit, about how things work around here.

When we have a committee established, we always have subcommittees. There is something that is really missing here, and that is the word "honour." Committees have subcommittees meeting all the time with representatives of all three parties, and it is an unwritten law with a little bit of honour and respect attached to it that when a subcommittee comes to an agreement and directs the Chair to convey the intent of that subcommittee to the House leaders, the rest of the committee pay regard and respect to that decision.

What Mr Winninger is saying is, "Let's scrub the subcommittee," because if in fact he wants the whole committee to make all these decisions, then let's not waste the time of those people who sit as members of the subcommittee and indeed have meetings; not only the time of the members of the subcommittee, but the time of the staff, our clerk and so forth. When he refers to this as a sidebar agreement, that really confirms the fact that this member has not a clue about how things work.

Mr Mammoliti: You are such an expert.

Mr Winninger: On a point of personal privilege: Perhaps I exaggerated.

Mr Abel: Lawyers do that, though.

The Chair: Thank you, Mr Winninger. Mrs Marland.

Mrs Marland: It is very interesting that a government member of a 74-person caucus suddenly is so concerned about the schedule and other commitments, as he said, of other members. Perhaps the clerk could advise me on this. Could you give me the date we started the sittings to review this bill clause by clause? Was it about October 22?

Clerk of the Committee: You will have to give me a few minutes to look that up.

Mrs Marland: In any case, the point I want to make, and the date will confirm it, is that this committee did not sit after August 18 for two and a half months.

Clerk of the Committee: October 31.

Mrs Marland: I am correct. For two and a half months this committee did not sit when it could have sat. There are two things happening here, and we had better be very sure about what this game is. First of all, the government brings in more than 100 amendments to its own poorly drafted piece of legislation—and I am being very polite when I say poorly drafted—and I have forgotten what the numbers are between the two caucuses opposition exactly, but in essence I think we have over 200 amendments to this legislation. Now the minister, who I do not think is either a House leader or a member of the subcommittee, comes into this meeting today and says she only wants to sit for one week on this bill in January.

Hon Ms Gigantes: Excuse me, Mr Chair, I did not suggest a time.

Mrs Marland: What did you suggest then? Let's be clear about it. What did you say?

Hon Ms Gigantes: I suggested that we leave the time to the House leaders. Is that allowed? Forgive me for making a suggestion.

Mrs Marland: You see, Mr Chairman, it is so sad it is pathetic. This minister is not willing to have this bill scrutinized through the clause-by-clause examination of it. That is why she is asking to cop off the responsibility to the House leaders. It does not matter what this committee requests; we all understand that the three House leaders, through negotiations, will make the decision. But at the very least this committee has to give some direction to the House leaders about what our wishes are.

Our wishes are that we need a minimum of four weeks to complete the rest of the work on this bill. Even with four weeks of sittings, I am sure we will not complete the amount of work that has to be done.

I am just wondering how it is that when we have had a decision made and a report from a subcommittee, the minister can come in today and make another recommendation like, "Let the House leaders decide." We know the House leaders are going to decide, but they have to receive some direction from this committee, and I have never heard a minister come in and intervene in that process. If she does not want the public to know what her government is doing, that is up to her, but I want the public to know what is going on and I want the public to understand the ramifications of Bill 121 for the future of rental accommodation in this province and where these tenants are going to be and why they are going to be out on the streets because Bill 121 puts the property owners out of business.

When the first apartment building in this minister's riding has its hydro, water or heat cut off because of this

legislation, the public is going to turn around and say: "What happened? How could the Legislative Assembly pass a bill like that?" We are going to be saying, "Not only was it passed, we were not even given full committee sitting time to review each amendment." Some are new amendments by the government itself. Even if you do not want to review our amendments, do we not have a right to review your amendments which have already been printed in this bill? You are saying one week. I think this is the height of insult both to the process and to the public.

The Chair: I might clarify to all members what is actually in this agreement. The request was for three weeks of hearings during the winter. With that three weeks was a guarantee by all three parties that we would complete the work.

Mrs Marland: Excuse me, does it not say four weeks on here?

Ms Poole: Three weeks for clause-by-clause and one week for 123.

Mrs Marland: I am reading the cover sheet.

1610

Mr Turnbull: I was party to that subcommittee meeting we had with Ms Poole and Mr Abel, and it was quite clear from the negotiation that went on that we believe it is appropriate to have enough time to go through all the clauses. I note that there are some 130 clauses in this bill. This is a very complex bill. You see the thickness of the bill. We have 77 pages containing 130 clauses. It was quite clear when we discussed the amount of time we needed that we took into account the amount of time that has been required so far to get to—we are now on clause 13. Could the clerk perhaps tell us how many weeks we have now been sitting on this committee doing clause-by-clause?

Clerk of the Committee: Every Thursday since October 31.

Mr Turnbull: So that is four?

Clerk of the Committee: Again, if you give me a minute, I will count up the number.

Mr Turnbull: Okay. That was the kind of calculation which was done with Mr Abel and with Ms Poole. What we have asked for is three weeks in the recess.

It is quite clear that during the curtailed hearings into Bill 4 where the government used closure on Bill 4, which was the temporary legislation on housing, we were told, "We're going to use closure to cut off any further debate of that bill, but don't worry, you'll have lots of time when the permanent bill comes down." Basically we are asking the government to 'fess up to what it agreed to at the time.

We are also saying that if a subcommittee agrees to these arrangements and makes a commitment that we will make sure the bill is handled by that time, even if it means we have to push it through at the end, that is for the purpose—I mean, the whole reason for subcommittees is to advise our House leaders, and unless we have some recognition of the value of subcommittees, we might as well go on record as saying, "Let's get rid of subcommittees and let's drag out all the proceedings in full committee hearings." That is the kind of choice we have to make.

I think the negotiations were very honourable with Mr Abel, Ms Poole and myself, and I walked away feeling we had made a fair compromise, and it was a compromise, because, as Ms Poole suggested, we wanted longer, but we negotiated down to that point.

We need full and complete public scrutiny of these clauses and we need full discussion of the individual clauses of a very complex bill which is causing the bankruptcy of a lot of landlords. Indeed, at lunchtime today I met an appraiser whom I have never met in my life, and I have no idea what his politics are, but he pointed out that since the introduction of Bill 4, the cap rates these buildings are being sold on have moved from 6.5 to 9.5. That is a massive change in capitalization rates which equates to around a 25% reduction in the value of buildings. That is what this bill is doing. This is directly as a result of legislation.

If we do not get the full scrutiny of these clauses, we are doing the public a disservice. I ask you, Mr Chairman, on behalf of this committee, to clearly send a message to the House leaders that if we do not keep to this agreement that was made in the subcommittee, then in fact we should abandon all subcommittee meetings in all committees of government, because they are wasting the taxpayers' money.

Mr Abel: It would appear that the recommendation put forth by the subcommittee has caused some disruption within the committee. That certainly was not the intent when Ms Poole, Mr Turnbull and I met to attempt to reach an agreement. However, there is some obvious disruption and, with that, I would like to move that the subcommittee report be tabled for further consideration.

The Chair: Let me just understand you, Mr Abel. You are moving to table or postpone the discussion of this report of the subcommittee?

Mr Abel: I moved to table the subcommittee's report for further consideration.

The Chair: To postpone. That is a debatable motion.

Mr McClelland: I will need your direction, Mr Chairman. I do not presume to interrogate Mr Abel in any sense, but in terms of understanding I would wonder if there is some significant reason why you would have a change of heart, if I can use that word, or certainly a change of position. I think that would be helpful for us.

It seems to me, if I understand correctly—and please correct me if I am wrong; for the purposes of the record I want to review this—that you, as whip of this committee for your government members, accepted as well the responsibility to sit on the subcommittee and that you negotiated in good faith. You are a man of honour and integrity and you negotiated in good faith. I have had the opportunity and the pleasure of travelling with you and I know that personally as well as professionally to be the case. You went to that committee with instructions, presumably, having discussed it with your colleagues and arrived at a position. At that point in time, all the pertinent information was available to you and you arrived at a decision I think everybody agreed to, with some give and take and compromise, which usually is the process, that led to the report of the subcommittee being presented here today.

I think it therefore is helpful to me and to other members of the committee to know what substantive facts have come to light that have caused you to change that. I do not want to put you in a position, sir, that would compromise your position. Both in terms of serving on this committee and your integrity, and indeed with your colleagues whom you represent, I think it would put you in virtually an untenable position to provide that leadership and direction for your colleagues on your side of the committee, the government members, and indeed for the entire committee, as a representative who comes to subcommittee meetings on the basis of some very fundamental understandings in terms of arrangements made, commitments given and the basic understanding that people's word is their bond in these matters and that they not be subject to change after the fact. Indeed, the whole process of negotiating these types of arrangements is based on the premise that people's commitments and undertakings are adhered to.

It can only lead me to the conclusion that it must be some substantive change in circumstances and/or some very telling information that has—because I cannot believe for a moment, Mr Abel, that you, sir, would abandon your position you negotiated in good faith unless there was some very compelling reason to do so, and I would be interested in knowing that reason or reasons.

The Chair: Do you wish to respond, Mr Abel?

Mr Abel: Yes. I thought my brief preamble pretty well addressed your concerns. At no time did I say I was abandoning my position, but it was quite obvious that the recommendation made by the subcommittee has been somewhat disruptive to this committee as a whole. In order that we could get on with the business we are here to do, I made the motion that this matter be postponed so we could come to more of an amicable agreement.

Mr McClelland: I take it then, your having said that you have not abandoned the position, that this still remains your position. Therefore it would follow logically that this remains your position and the position of your party. As your party's representative, this is your recommendation to the committee. Is that not true?

Mr Abel: My position is that in order that we can get on with the business, we table this matter or postpone this matter until we can reconsider the situation, because it is obviously very disruptive. We have heard the other members express their concerns.

The Chair: I think we will just go in rotation now, Mr McClelland.

Mr McClelland: Can I just finish this one point? I think it is important, Mr Chairman.

The Chair: Fine.

1620

Mr McClelland: The question again then, sir, is that this remains the position you and your party adopt, whether it is dealt with today or some subsequent time. This is the position you arrived at in good faith. You put your word on the line in terms of this position, is that correct?

Hon Ms Gigantes: But a lot has happened since December 3.

Mr Abel: Mr Chair, it is my understanding that we have a motion before us and we are required to debate this motion, not enter into a question-and-answer period. I think I have made my position quite clear and that should be sufficient for the member opposite.

The Chair: That is fine. Of course, no one compels you to reply.

Mr Abel: That is right. I tried to answer that as succinctly and clearly as possible and I think I have done just that.

Mrs Marland: The most interesting aspect of the discussion at this moment today is the interjections of the minister, who does not sit as a member of the subcommittee. For the purposes of a lot of committee work the minister, if we have a full complement of government members, does not take part in the business of the committee. But we have a unique happening here today where the minister, from her position as minister, is trying to take over the business of the committee, which I take strong exception to. I have not seen that happen before.

I say with respect to Mr Abel that I suspect he is the person who has been put out to dry here. On a personal basis, I have a lot of respect for Mr Abel and I think he is being made the fall guy, the same as Shelley Martel is being made the fall guy for somebody else's mess-up in the House.

Mr Mammoliti: You are wicked, are you not? It is irrelevant.

Mrs Marland: It may be irrelevant in your opinion, but when the minister says a lot has happened since December 3, we are sitting here on December 12 and you are quite right, a lot has happened. The people of this province are more disillusioned than they would ever have dreamed they would be, and what is going on today is only going to fuel that disillusionment.

We will not postpone this report in front of us today from the subcommittee for a number of reasons, not the least of which—to use the minister's own words—you do not have to be too naïve to know that right now the House leaders are trying to schedule our work program—for those of us who choose to work and be committed to the public service to which we are elected—the schedule of meetings for January and February.

Part of the challenge the House leaders have to deal with is that very fact of juggling meetings, the sitting days which conflict with other committees, where you have a member who sits on more than one committee. We also have an added little problem that they have to schedule the venue where committee meetings take place, and when we have committees that are travelling, we understand how this complexity escalates.

To postpone this decision, I suggest, might be a tremendous advantage for the government because, for one thing, we are going to take it out of the purview of this public forum we are presently in—and would you not just love that—and we are going to put it back in a subcommittee that has already been violated by the fact that we are even sitting here debating something a subcommittee already decided.

I will not be party to this. I think it is an outrage that a subcommittee has made a recommendation and in good faith the Chairman, whoever it was on that particular occasion, went forth with the decision of the subcommittee, and the rest of it was to be pure procedural housekeeping. If that were not the case, then perhaps another time the subcommittee might want to report to us immediately after it has met.

This, as far as I am concerned, demonstrates a total breakdown in the subcommittee process, and we are not going to allow our House leaders to meet in isolation of what this committee is saying we need in terms of time allocation in January and February to get on with the business of this bill.

I say again to the minister, Mr Chair, if her ministry had gotten its act together we would not have had two and a half months without sitting on this bill. We could have gone into the business of clause-by-clause examination of this bill, even if they had not had all their amendments ready. I can concede that if you are going to more than rewrite your bill because it is so badly written—which is what they have done—if you are going to bring in over a hundred amendments to your own bill, I can see that takes some staff time to prepare and I respect that.

We would have agreed to start sitting at the end of August when there was time free and available, and sat through September and October. Since the amendments were prepared or in numerical order, we could have dealt with them as they came forward. We did not need this luxury of waiting until the bill was totally reprinted with all their amendments already enshrined in it. We did not need that. We were asked if they could do it and co-operatively we agreed, but that was not the reason we lost two and a half months, as I recall. I think the decision to reprint the bill came somewhere towards the end of October.

Every time a meeting of this committee was postponed we said, "When is the government ever going to get its act together and get the business of this bill proceeding?" Now we are into a situation where the government is saying, "We are only going to give you one more week, or whatever the House leaders decide." It is not what the House leaders decide. They cannot make a decision in the absence of some direction from this committee, and the direction from this committee, as far as we are concerned, stands as a request for three weeks of sitting.

If we are going to start playing games on how much time it will take, even then I am sure we will not be satisfactorily through all the sections and dealing with all the amendments to this bill. But we are willing, and I understand that compromise was reached by the subcommittee. They agreed to three weeks as a compromise.

How much further do we have to go to be co-operative if we are saying we would agree for three weeks when other committees, perhaps, have four or five with far less work? Frankly, I have never sat on a committee with a bill with this number of amendments and I do not agree. This item is on the agenda today and we have to give the direction to the House leaders so they know how much time we need to fit in with every other schedule for that time when the House is not sitting and committees do sit.

Mr Winninger: I am quite gratified that the minister has played such an active role and attended at this committee, because I certainly think it adds an element of sanity to these proceedings. I need to respond, however, to some remarks of Mrs Marland that she made earlier.

Ms Poole: Do not talk about George like that.

Mr Winninger: I may have been in office only 16 short months, but it appears I know a lot more than Mrs Marland does after her long stay here, because I would suggest to you that it is not the obligation of this committee to always accept every report a subcommittee prepares, uncritically and ex cathedra. There will be times—it is not the first time and it will not be the last—that the committee may choose to accept, not accept or amend a report of the subcommittee. It is as simple as that. I hope that we, as members of the committee, have a significant role to play and that we are not just here to accept reports of subcommittees. Naturally we repose a high degree of trust in the people who serve on our subcommittees. I have tremendous respect for them, but there may be times when our committee cannot accept, in its totality and unequivocally, a report of the subcommittee. That is all.

Mrs Marland: Do not put your own member out to dry; it is not fair to your own member. What a game.

1630

Mrs Y. O'Neill: Mr Chair, what is happening here this afternoon? I am sorry I missed a great quantity of it because I had other duties.

Ms Poole: Are you really sorry?

Mrs Y. O'Neill: I do not know, it is difficult to come into a debate midway, but I think it is very extraordinary. I think subcommittee reports are usually accepted as presented and I really am sorry—I have a very short history here, but I have not seen them being tabled in this manner. It is the first subcommittee meeting I was not at, by the way, because that used to be my role.

Ms Poole: Okay, so blame me.

Mrs Y. O'Neill: I did figure that I had had very good co-operation and I thought the subcommittee of this committee met and reached very high standards of discussion and decision-making. I think we have to understand that this is strange, because this is not an isolated decision we are making. I was talking to some of my colleagues at noon and saying it is very unusual that we have no idea what we are doing in January at this moment. We are now at December 12. Last year we knew what we were doing. We even had all our meetings planned for this committee and for the Constitution committee and we even knew where we were travelling. So this is very unusual.

Mr Bisson: We did that in January last year.

Mrs Y. O'Neill: For this committee, not so. I am talking about the standing committee on general government hearings on Bill 4.

Mr Bisson: But do not say the Constitution committee; we planned in January.

Mrs Y. O'Neill: We were planning what we were going to do in January in December. We knew who we

wanted to speak to, Mr Bisson, and we knew when we wanted to speak to them and we knew it was January 27th.

The Chair: Through the Chair, please.

Mrs Y. O'Neill: I am sorry, but I know of what I speak. As a result, none of us knows, not one person in this Legislature at this moment knows, if there will be a meeting on January 6 or January 13 in this building. As a result, we are all hostage. We cannot make any plans; we have to be on hold. I find that a little bit distasteful. This turn of events is more distasteful because this is a very interrelated decision. It has to do with all the other committees. I know it was part of an agreement of the House leaders because I was part of that discussion, and this was certainly a very strong element, because it is a very important bill; it was a very strong and high-profile element in that decision and discussion.

Now, all of a sudden, I come in here this afternoon with a lot of other jazz on my mind that is going on around here and find this happening. I really cannot believe it. I will not make any judgements about any members of the subcommittee, but there is something just not correct when a subcommittee's report has been unanimously approved and the House leaders were even in on the discussion of what it would contain and now it is being withdrawn or tabled or whatever term you want to use. Those are my remarks, Mr Chair.

The Chair: Thank you, Mrs O'Neill. We have Ms Poole, Mr McClelland and Mr Mammoliti.

Ms Poole: I, like Mrs O'Neill, have now been in this Legislature over four years. In that period of time I have sat on numerous committees. I have sat on the standing committee on social development, the standing committee on administration of justice, I chaired the select committee on education for two years, I have been on the standing committee on public accounts and I have been on the standing committee on general government. This is the first time in almost four and a half years I have seen this occur. The only other incident where it was disputed in the full committee was where the steering committee did not reach unanimous consent.

In this case we did have unanimous agreement of the three parties and as I mentioned earlier there was considerable give and take on both sides. We reached that agreement and, quite frankly, bringing it here today was pro forma so that members of the committee would know what the steering committee had done and you could be up to date with what we had asked for. The request has already gone to the House leaders, make no mistake about it. The fact that the full committee recommends something does not mean it is going to be cast in stone. The House leaders will make the final decision. But to abort the report of the steering committee is something I have never heard of in this place. It is highly unusual to have this type of interference.

Mr Winninger mentioned that he reposed a high degree of trust in the steering committee members and, I presume, particularly in his own colleague Mr Abel, who was a member of that steering committee. I concur with my colleague Mr McClelland. He has always acted in a forthright and accommodating and trustworthy way. Now suddenly is his word no good? I cannot comprehend this. We have a choice here today. By tabling this report and by debating it—and we have here five opposition members who feel very strongly about this unusual precedent that you are attempting to set today. We all intend to speak to it. Why are you wasting our time debating this when we could get on to the bill and get some work done? By tabling it, all you are doing is delaying the inevitable.

Mr Mammoliti: So call the question.

Ms Poole: I am not going to call the question, because I do not think that motion should have been made. It is inappropriate and I think it is unethical. I think it is unethical of the NDP caucus to force its own steering committee member to backtrack. If you repose that high degree of trust, it is something you should not have done. That kind of pressure should not be brought to bear on one of the members of this committee and on one of the members of the steering committee.

This steering committee, for the last year, has worked extremely well. There have been very few issues where we could not reach some kind of consensus. We had our occasional flare-up; that is not to be denied. But I will tell you, if you subvert the report of this steering committee, then we may as well not meet. I for one do not want to waste my time when I know it will not matter because the government is going to use its majority on the master committee to override anything we agree to. What is the point in having the agreement? Steering committees are formulated so that we can make the main committee more productive, so that we can make decisions.

The House leaders have already been advised of the request. The Chair was instructed to do so by the three members of the steering committee. The House leaders are aware of our request. Today what we were expecting was a pro forma to tell you what was happening, and that is it. That is what normally happens.

If you are talking about delaying getting on to this, it is going to delay it. If you are talking about having filibusters in the House when we come back and having difficulties in making agreements, then this is going to precipitate it. Here we had all-party agreement, a guaranteed date by which this would be out of clause-by-clause, and if we went with what the steering committee recommended, January 13, January 20 and January 27, by the end of January the Minister of Housing and the bureaucrats would know exactly what had passed; they would know what was going into the House; they could prepare their regulations and, as I mentioned earlier, not one day of delay.

But instead I predict we will talk about this until 6 o'clock tonight and then next Thursday we will start. What a bloody waste of time. Why do we not get on with the business? Tabling this does not accomplish anything. What is tabling it going to do? This full committee has to report to the House leaders. If it is going to do anything, it is going to make my House leader much more recalcitrant to reach any accommodation with the government House leader.

Mrs Y. O'Neill: Who knows this committee well.

Ms Poole: Who knows this committee extremely well, because the current opposition House leader chaired this committee for the last year.

Mr Mammoliti: And he has done a wonderful job.

Ms Poole: He did a wonderful job.

Mr Mammoliti: You can tell him that from me.

Ms Poole: When Mr Winninger said the minister has brought an element of sanity to this committee, for one thing, I think he really did a grave disservice to Mr Mammoliti and Mr Abel—

Mr Mammoliti: Yes, I take that personally.

Ms Poole: —and Mr Bisson, and I think Mr Lessard has sat on this committee from time to time.

Interjections.

The Chair: Order.

Ms Poole: Yes, Mr Chair, thank you for bringing the government members to order. They are rather unruly today.

Mr Bisson: We are used to it. We watch you in the House. We have a good example to follow.

Ms Poole: Thank you, Mr Bisson. He has said that I am his role model. I take that as a high compliment.

But when Mr Abel gives as the reason he wants to table this the fact that he did not realize it was going to be disruptive, he is quite right; there is no way it should have been disruptive. We were not going to talk to it, other than to say this was all-party agreement; let's get on to the business. Now it has become disruptive. In fact, only one person on the government side has spoken to it and suddenly it disrupts the whole committee. That to me is not an adequate reason for withdrawing, for trying to table this and for this committee not to make a decision.

I abhor the type of politics that are being played because what it does is sacrifice a very honourable member of the steering committee and make his word not to be believed in future.

Mrs Marland: Exactly. That is the sick and sad part of it.

1640

Ms Poole: This is what it comes down to, whether it is pressuring Ron Hansen or pressuring Don Abel, who are honourable people who do what their consciences tell them to do. What is their word worth?

Interjections.

The Chair: One conversation at a time. Mrs Poole has the floor.

Mrs Marland: I wish you did know about loyalty. Then you wouldn't put Don out to dry.

Mr Mammoliti: You are so emotional.

Mrs Marland: I am honourable.

Ms Poole: The final point Mr Winninger made was the fact that he was trying to assist the House leaders in organizing the precious time of the members. I would say to Mr Winninger that the NDP government caucus has 74 members, the Liberal caucus has 35, the Tory caucus has 20. The two opposition caucuses, which combined have less than two thirds of your majority caucus, are willing to put our members in here for three weeks because we think this is important.

If you are saying that one of the most major pieces of housing legislation to come forward in the last six years is not worthy of your time, that is fine. If you are saying to the tenants and the landlords of the province, "Yes, you have concerns with this legislation which have not been addressed, and there are many on both sides, but I am sorry, we are going to squeeze this in in four days and we are not going to be able to debate your point of view," that is fine too.

I just hope you take this into account three or four years from now when you go to the polls, because it is symptomatic of an arrogance that I think has come very quickly to the NDP government. But to throw your own member to the wolves—

Mr Winninger: I am sure the tenants will forgive us.

Ms Poole: I do not think they will because I do not think they are going to trust you, the same as you are trying to hang your member out to dry and throw him to the wolves.

Mr Mammoliti: You care so much about him.

Ms Poole: I do. He is a very nice man and I like him. There are those in this place I cannot say that about. He was a pleasure to travel with. I hope my husband does not take that personally because it is purely platonic.

Mr McClelland: So does his wife.

Ms Poole: Mr Abel's wife feels that way too.

I think this is highly unusual. I have not seen the like of it in the four and a half years I have been here and I hope you will reconsider and withdraw that. Otherwise, we are going to be wasting more time and we will not even get to the rest of the bill today.

Mr McClelland: I will try as dispassionately as I can, being a relative newcomer to this committee for this particular bill, to touch on a couple of salient points and, I hope, points that can be addressed in the context of the discussions here at a greater level. I would ask particularly Messrs Lessard and Winninger to pay attention to a couple of points I am going to make.

Mr Winninger: I always do.

Mr McClelland: The first point I want to make is with respect to a discussion I had with Mr Abel. He became somewhat exercised and responded through the Chair to me with a little bit of anxiety, and I understand that. I understand the position you are in and I do not take that personally in any sense. I recognize that. You were unable to answer the question directly because of the very uncomfortable position you have been put in by, I say with respect, the members of your caucus.

I recognize that and I have some concern about that for you as an individual who is highly regarded not only among your own colleagues but by other members. What is at stake here is a process in terms of taking the mechanics of working here—and Mr Winninger—

Mr Winninger: I am listening.

Mr McClelland: There is something that is fundamental. It is a fundamental principle of conduct and procedure

where people are charged with a responsibility, accept that responsibility and carry it forth in good faith. You have been put in jeopardy. I say to Mr Abel that I understand why he did not respond to that.

I am going to appeal to Mr Lessard and Mr Winninger as members of a profession that has a particular code of conduct and a code of honour. Within the profession they are members of, there is terminology thrown around that is seen to be in some circles, and I would think among you gentlemen as well—Mr Chairman, they would consider it to be one of the graver charges.

Mr Winninger, I would caution you not to say you know more than Mrs Marland. I would never say that, but you have taken that position.

Mr Mammoliti: Nobody knows more than Mrs Marland.

Mr McClelland: Mr Winninger indicated that surely the subcommittee's position is not one to be adhered to as sacrosanct and is subject to debate. I think there are times that would happen. I think anyone would reserve that right and so it should be that ultimately we will make our decisions as best we can, based on the information that is brought to us.

But I would caution you, sir, to be very careful in doing so in this instance, because what you are talking about here is a process that is fundamental to the workings of this place. To raise an argument in terms of philosophy or to raise it to an esoteric level, I would say very plainly to you is what we in our profession consider sharp practice. That would be insulting to you and it would be to your colleague.

Mr Winninger: On a point of personal privilege, Mr Chairman: I think it is totally inappropriate to characterize a reasoned position of a member of this committee as being sharp practice. I think this analogy is totally irrelevant. I am not here as a member of the bar; I am here as a member of the House. I think I am privileged to exercise the independence of thought that should characterize all members of the House, and that is what I have done today.

I think Mr McClelland is way out of line when he starts using the term "sharp practice," and I take umbrage with that.

Mr McClelland: The member is certainly entitled to do that, and I cautioned at the outset that I was trying to do this dispassionately and put it in a hypothetical position. I was not making that as a charge. I said simply that if one were to take this example and to use it, it would be somewhat analogous—I said "somewhat analogous" in my mind—because what you are doing is using a fine point of argument really to undermine a process that is based on terms of integrity and acceptance of a tradition and acceptance of the good word of one of all of our colleagues and, under a smaller umbrella, a colleague of your caucus.

What you do then is to bring in an argument that says, "I want to maintain my independence of thought." That is to say you call into question at each and every time in the future the mandate you have given and the responsibility a subcommittee member has accepted. I think you are on a very slippery slope when you begin to do that.

I say this again as dispassionately as I can, sir—with great respect, Mr Chairman, to the member opposite—that you will begin to cause one to question at each point hereafter the value of what we are going through. Is it subject to further scrutiny? Are we going through a charade?

It leaves in this case Mr Abel and in the future whoever may serve in that position on the subcommittee in a no-win situation. It is ultimately lose-lose, no matter what they do. Their word is in question through no fault of their own. Surely that is a burden you would bring to one of your colleagues in only the most extreme situations.

I ask you to consider, is this circumstance in terms of accepting a subcommittee report that was generated in good faith, in honest and open dialogue, worthy of calling into question and jeopardizing a process that, quite frankly, you may know better than each of us here has heretofore worked well?

People given a mandate by their caucus colleagues discharge that responsibility in good faith and the goodwill of all members. I would simply say that to begin to abandon that at this point in time on something of this nature, which after all is a procedural matter, would be, I think, a grave mistake, not only for the moment here and not only for this committee but for the basic ingredient of making this place work, and this place does not work if there is not an understanding of honour and integrity and of people's word. It is fundamental to the process. Trust is something that cannot be shaved around the edges. It is either there or it is not.

1650

Mr Abel has that reputation. He functions well as a result of that, I presume within his caucus as well as without. To call into question the commitments he made in good faith on behalf of his colleagues at this point begins to shave it around the edges. When you open the door a little bit, I think we are in a very serious—I understand you think that this is part of political posturing. I think it goes much beyond the context of Bill 121. It goes much beyond the context of the standing committee on general government. It goes beyond some very fundamental principles.

The minister is a veteran of this place, was here long before I ever came here and she knows how essential that is, particularly when you are in a position of opposition. The one thing that makes this place work is the goodwill that can be engendered, in spite of the difficulties that must be overcome from time to time for that to happen. When you scrape down to the bottom of it there has to be that thread. If you start to snip away at it now, I think that you leave yourself—

Hon Ms Gigantes: It works both ways, Carman.

Mr McClelland: I understand that, but I think what we have here is a situation that is very plain. We have had three people come together and come to a consensus and now you are saying, "Hey, all bets are off." I think it is a really dangerous precedent, not only for here, but across the board in this place.

The Chair: I continue to run a list. Mr Mammoliti, Mr Turnbull, Mr Bisson and Mrs O'Neill.

Mr Mammoliti: I wanted to just make sure the mike did not come on too early, because if it came on too early somebody would pick on the person who is running the mikes.

First of all, let me say I am glad to be back. I missed this morning and—

Ms Poole: We missed you, George.

Mr Mammoliti: Yes, I know. I understand there was a pretty healthy discussion this morning. I can see that there is some healthy discussion at this point as well. Even though it is emotional and even though some people are taking it personally, I think it is healthy. I think we are dragging on a little too long, but I think it is healthy.

I wanted to say thank you for caring about my colleague Mr Abel, but I think Mr Abel feels comfortable. Mr Abel will tell me if I am wrong; he has in the past. In terms of the subcommittee making recommendations, the subcommittee knows it has to come to this committee and we discuss and we debate. If we do not agree with the recommendation, I am sure there are precedents in the past that we could use perhaps to argue our point—you are blaming us, so our point. I am sure that in the past a committee has overruled a subcommittee. I am willing to bet that.

The Chair: Mr Mammoliti, just to be helpful, we are talking about a motion to table—

Mr Mammoliti: Yes, I realize that. I am getting to that, Mr Chair. That is why I agree with Mr Abel's motion, in that perhaps because we are wasting so much time and because so many of the committee members are being emotional and perhaps need that brisk walk I was talking about earlier, it may be wise to carry through the motion and to end the debate.

Ms Poole: On a point of order, Mr Chair: Mr Mammoliti has made the point that we are emotional. I think we are quite dispassionate about this.

The Chair: That is not really a point of order, Ms Poole.

Mr Mammoliti: That is irrelevant, Mr Chair. I saw some emotion. I saw some name-calling as well.

Ms Poole: Nyah, nyah, nyah, nyah, nyah.

Mr Mammoliti: There you go. It is typical. But I do not want to get them any more upset than they are. I do not know what they are capable of.

Mr Chair, when I put my hand up originally I had planned—because I was so concerned about the length of the debate, I wanted to call the question. I have changed my mind since. I will not call the question because I see that there are two other people who want to speak.

The Chair: Three, actually.

Mr Mammoliti: Three. I think we should give them that opportunity, but at the same time warn them and say that I agree with Ms Poole and that we are wasting time and that we could be going to regular business, which is clause-by-clause. We hear argument from the other side saying we are wasting too much time, and on the other hand they just want to keep talking. So I would like to put that warning out to the next speakers.

Other than that, Mr Chair, I will just leave it to Mr Turnbull who is next on the list. I am sure Mr Turnbull will not be as emotional as usual and will not be as lengthy. I am hoping he will not be as lengthy and we can get on with this.

Mr Turnbull: There can be no doubt about the fact that during both Bill 4 and Bill 121 there has been a great deal of controversy and, indeed I would say, a degree of animosity within this committee. But in all honesty I cannot say that has carried over to the subcommittee, which I have been on. Much as I may object to the government and its attitudes, I cannot say I have ever objected to anything Mr Abel has done in the subcommittee. He has always been very straightforward and discussed it and had an open mind. That was the way in which he approached the subcommittee meeting. I absolutely object to the way his own party is hanging him out to dry because—

Interjection.

Mr Turnbull: Don, I am honestly sorry that the question was put by Mr McClelland to you as to what new information you had which made you change your mind and that you did not respond to that question.

The Chair: Through the Chair, please.

Mr Turnbull: Mr Chair, it is a very unpleasant situation to put him in. He is a member of the government. He has to toe the line. It is quite clear that we had the discussions as to why we wanted this length of time for clause-by-clause. I will once again, through you, Mr Chair, to the minister, remind her that during the Bill 4 hearings, at the time they brought in closure, in great detail the previous minister committed: "Oh, don't worry about the fact that we're using closure. We're going to give you full discussion of the permanent legislation once we get this emergency legislation through."

There is still better than a year to go on Bill 4, so there is no emergency on this. The House does not sit again until March, so it is not a question of getting this bill through. Given the degree of economic mayhem this bill is causing, it is appropriate that each clause be studied in detail and get full public scrutiny. By asking that this question be tabled, it is quite apparent the reason is that they want to move it out of the public eye, because we are now on television, where the public can see that this is a government that committed to open government and is now reneging on those commitments and indeed is putting its own subcommittee member in a very awkward position. Either he votes against his own people and takes the punishment, and we know what this government metes out to people who do not toe the line, or, alternatively, he is seen to have violated an agreement that has been made.

I unfortunately do not have the depth of experience my colleague Mr McClelland has because this is the first Parliament I have sat in, but it does seem inappropriate and you have to question why you have subcommittees at all. Does this augur for the future that the government is in favour of getting rid of the subcommittee process?

Mr McClelland: David, it is not funny.

Hon Ms Gigantes: Oh, we need permission to laugh now, do we? Good heavens.

1700

Mr Bisson: I come into this meeting at a time when the committee is in much disarray, to say the least, for reasons I imagine the opposition feels are justified and for which the government side feels justified as well. It is each other's role when in opposition to oppose. It is something we get paid for, and it serves a useful process, and that is exactly what is happening here today. Opposition is opposing a move on the part of the government that is—

Mr Turnbull: No, we are asking you to keep your agreement.

Mr Bisson: Mr Turnbull, I do have the floor.

It is the job of the opposition to oppose, and that is what they are constituted to do in this Legislative Assembly. I respect that. The only point I would like to make is that when addressing some of the questions that are before us, some of the verbiage, to say the least, is quite inflammatory, and I would ask the members of the opposition to keep that in mind when raising their points. It is quite hard to sit here and keep some amount of composure when members on the other side are using fairly strong language and fairly strong terms and references by which they treat this side of the government.

I would argue with the comments Mr Turnbull made. This government is a government that said, "Yes, we will consult." Why are there amendments to this bill? It is exactly because of that. We are not a government that is inflexible. We said that from the beginning. If a situation arises that we need to respond to, we will respond to it. I think that is just due process, and I think it is about time that we tried to take an approach to government that is somewhat different, not an inflexible style by which we are not able to go on with the business we have in this House.

Ms Poole mentioned a little while ago that we seem to be wasting time. Let's get on with the business that the people of Ontario have put us here to do. Let's hope we take that advice and we decide to vote on this.

Mrs Y. O'Neill: Mr Chairman, you were a part of this committee—and I think several other members—last January. I think you remember that, unfortunately, I had a very strong reaction at the very first meeting of this committee in January 1991. The reason was very similar to today. We had all gone away on our winter vacations thinking we knew what was going to happen—or winter holiday at home, basically; I am not talking about going south. We had been told that we were going to have—and the weeks may not be exact in these numbers; I think it was five weeks at that point. Then we got back into the very first meeting of this committee and we were told, no, that Bill 4 was going to be dealt with differently. We were going to have three weeks and we were not going to be the only show. We were going to have another show in the province, with the parliamentary assistant and others going across the province at the same time. I think those of us who were here that day will recollect that it was a very difficult meeting. There were recesses—many recesses—requested on behalf of the government members.

This is what causes the difficulty in this particular session of Parliament. We are under one impression. We, those of us who are whips and who have been whips and on subcommittees and other duties we have around here, know how this place operates. We know that people make decisions based on other decisions—compromises—and many people around here have talked about how democracy works. If these are all-party committees, then all parties should be basically listened to and a consensus reached. For the most part, in this Legislature, in my experience, that has happened through the subcommittee process.

As I say, I have not experienced anything like that meeting last January or like today in all the time I have sat. I know that is not a long time but I really cannot understand how the government members expect us to come into a meeting knowing one thing, having been guaranteed by the leaders in our own party that this is the basis upon which we will be working—we all understand this fully. In fact, often the government members are pressuring our House leaders and our leaders: "Have you caucused yet? What have you caucused?" These are the kinds of things we talk about in caucus, the things and agreements that have been made and why they have been made. Then all of a sudden those of us who have been well briefed, those who need to be briefed on these issues, come in and find the whole world has changed. Well, this is not the way to make things happen.

Bill 4 was a retroactive bill. We could not understand the real hurry there either, and we certainly, as has been expressed by other colleagues, cannot understand the hurry here, because we know there are transitional periods and everything attached to Bill 121. So those are the reasons that the members on this side are having difficulty. It has nothing to do with the integrity of the members of the subcommittee who, as I say, I have worked with, and worked with well. But it is really unfortunate when we get into the public forum of the committee. Mind you, the meeting on Bill 4 was asked and requested to be in closed session, which was another difficulty. I find the whole thing unique and somewhat absurd, and think it is not leading towards a good operation of this committee, which, as I say, is my first really bad experience at Queen's Park.

Ms Poole: I have two questions which I think might help put this in perspective. The first question, which I will put through you, Mr Chair, is to what specific date are you going to table this motion? Are you tabling it indefinitely so it will never be reached again, or are we going to deal with it next Thursday morning, at which time it is extremely late to give it to the House leaders to denote the wishes of the committee? That is the first question I have: To what date are we going to table it?

The Vice-Chair: I will simply ask Mr Abel if he wants to amend his motion, or if there is, in fact, a date in mind.

Mr Abel: I must admit that my wording, "for future consideration," is really quite broad. The intention was just to sit down and reassess our recommendation to the master committee. I really do not know how long that would take.

The Vice-Chair: Mr Abel, for purposes of clarity, when you say, "We want to reassess it," so it is clear for the record, are you speaking of the committee as a whole?

Hon Ms Gigantes: Not recess—reassess.

The Vice-Chair: Reassess. Are you speaking about the committee as a whole or the subcommittee, when you say "we"?

Mr Abel: I am making reference to the subcommittee.

The Vice-Chair: Okay, thank you.

Ms Poole: Rather than continue to debate this for the next hour, would it be appropriate—and I am willing to make a motion to this effect—for the committee to recess for 10 minutes to try to see if we can resolve this and settle it to the satisfaction of all parties? If the committee is not willing to recess, then we will have to continue debating it.

The Vice-Chair: On a point of procedure, Ms Poole: Mr Abel does have a motion on the floor and that must be dealt with in one of a few ways. One of them of course could be for him to withdraw it at the present time.

Interjection: If there is agreement to recess.

The Vice-Chair: We ought to have unanimous consent to recess.

Hon Ms Gigantes: That is what she is asking.

Ms Poole: Actually, the suggestion has come from one of the government members, that we do recess to try to iron this out.

The Vice-Chair: May I take it that we have unanimous agreement for that?

Mrs Marland: Not until I get one more piece of information in order to be able to discuss it, if we are going to recess.

The Vice-Chair: Then we do not have unanimous consent, and we will continue.

Ms Poole, do you want to defer to Mrs Marland?

Ms Poole: I will defer to Mrs Marland, so she can make her one point, and then perhaps I could bring the motion again.

Mrs Marland: My understanding of Mr Abel's motion—and maybe the clerk could read his motion. Do you have it in writing?

Clerk of the Committee: It is a standard motion for postponement. Mr Abel moved that further consideration of the report of the subcommittee be postponed.

1710

Mrs Marland: "Postponed." There is no point in recessing for 10 minutes to discuss a motion that has no dates, no direction at all. If Mr Abel is suggesting that the report of the subcommittee be postponed until the subcommittee meets again, I guess that is something we need to know before we know what to discuss. Is that what you are proposing? I ask through the Chair.

The Vice-Chair: I can ask Mr Abel. Might I say parenthetically that perhaps as a product of the recess, some clarification or amendment to the motion may be forthcoming. Mr Abel, if you would care to respond.

Mr Abel: Just in reference to the motion that was read back, I believe it was "postponed for further consideration." I think that is important, because it does indicate that we are not trying to put it off indefinitely. As I said earlier, it became very disruptive very quickly. I thought if we could have some further time to consider what the recommendation was it would help speed the process along.

The Vice-Chair: Just for the record, Mr Abel, the motion as written and read back to you did indicate the phrase "for further consideration," which happens to be at the front of the motion rather than at the tail-end of the motion. Just so that you are satisfied.

Mr Abel: I did not hear that part, I am sorry. Perhaps the clerk can read it back again. This is a problem when we do not submit them in writing.

The Vice-Chair: You can rest assured that it did, in my view, reflect your desire.

Mrs Marland: Yes, it is a problem when motions are on the floor.

The Vice-Chair: Perhaps we can have the clerk read it for Mr Abel and for all of us.

Mrs Marland: Mr Chairman, we are sitting here discussing a motion and we do not have a copy of it.

The Vice-Chair: The clerk will read it so that we can pay attention to the motion on the floor. If we could all listen carefully it might assist us all.

The Clerk of the Committee: I did take some editorial licence with the motion so that it is written in the standard form of a motion for postponement:

"That further consideration of the report of the subcommittee be postponed."

Mrs Marland: Mr Chairman, I am not interested in recessing for 10 minutes unless I know what it is that the government is postponing this report for, because if I am going to go and discuss it with my House leader and my whip, I certainly need to know a little bit more about what is behind the postponement. For example, if the postponement is for further discussion with the subcommittee, that would be a total laugh almost. The subcommittee, as far as this committee is concerned, has now been totally demolished and so I am putting on the record my concerns.

When we have a member of the government side of this committee who sits here and talks about the language of this meeting this afternoon being inflammatory, and his own Premier refers to the previous Premier as a liar, if we are really going to talk about what is going on here and who is inflammatory, we had better be very careful.

I really find it very interesting when a member of the government panel on this committee tells me what my job is. He said my job in opposition was to oppose. Well that member has not sat in opposition, so he does not know what the job is of opposition, and he certainly is not going to tell me what my job is.

This whole debate revolves around whether we sit for one week, two weeks, three or four weeks in January and February to deal with this bill, and as has been said, the bill cannot be passed until the House resumes anyway, which I think is about March 19. I think we are wasting a great deal of time in this discussion.

The other thing is, although I was not a member of this committee when this committee dealt with Bill 4, it was my understanding that Bill 4 was put in place with the

assurance that the next rent control legislation that came from Bob Rae's socialist government would be a piece of legislation for which there would be a large amount of time allocated for its process.

Ms Poole: On a point of order, Mr Chair: I did yield the floor to Mrs Marland to have one point of clarification. My understanding was that the floor would then revert to me. I think it has gone far beyond a point of clarification at this stage.

Mrs Marland: All right. I will wait until my turn then.

Ms Poole: I called the question and I asked for 20 minutes to obtain all members of our committee to vote.

The Vice-Chair: You have moved the question be now put with respect to? It would have to be the motion.

Interjections.

Ms Poole: To Mr Abel's motion.

The Vice-Chair: Shall the question be now put?

Ms Poole: Yes.

Clerk of the Committee: She has asked for a 20-minute recess.

The Vice-Chair: A 20-minute recess. The committee is now recessed until 5:35.

The committee recessed at 1716.

1738

The Chair: The committee is now back in session. I will now put the question. Shall the question now be put? All those in favour?

Mrs Marland: I am just wondering, have you two spoken to each other since you spoke to your House leaders?

Mr Abel: Yes, we have.

Mrs Marland: So do you think I might be part of that now, since I spoke to my House leader, or are we going to do it all here in the open?

Ms Poole: I know we have a vote on the floor right now. If I could make one comment, because I think it might result in Mr Abel's withdrawing his motion.

The Chair: There appears to be unanimous agreement, at least momentarily, that we will not put the question.

Mr Bisson: Quick, grab it while it is hot.

Ms Poole: Mr Abel and I have talked with the government House leader and explained the difficulty on the committee, and the fact that some of us felt it was interference in the committee business to say we could not go ahead and pass the steering committee report.

The government House leader has agreed that we should just go ahead and take a vote on whether the steering committee's report should be adopted, with the proviso that we add the words "subject to the negotiations of the House leaders and whips," which is what always happens anyway. So I think it should not cause offence to any members here. Basically what that would mean is the steering committee's report would be adopted by this committee. It would go forward to the whips and the House leaders and, as traditionally happens, they would make the final decision as to the amount of time this committee would be allocated so we do not prejudice our interests, the House leaders do not prejudice their interests and I think it gets us out of this impasse.

Mrs Y. O'Neill: How traditional and logical.

Mr Turnbull: I just want to say that this is the kind of silly face-saving little agreement the public watch and say, "What kind of nonsense is this?" You either have an agreement or you do not. It is quite clear that it is always up to the House leaders and the whips to finally decide the time allocation. It is not up the committee. It was the question of a recommendation from a committee.

Mrs Marland: Mr Chairman, is Mr Abel going to withdraw his postponement motion and are we going to deal with the report? I need to know that before I make a few comments.

The Chair: Maybe we could have Mr Abel comment.

Mr Abel: I would like to have that opportunity very much. Initially, the motion was tabled because it appeared that things were becoming disruptive. Things became worse with the motion.

Mrs Y. O'Neill: A very good assessment of this afternoon.

Mr Abel: It would appear now that we are back to square one. Regarding some of the comments that were made, I do not feel there was any violation of the code of ethics with this motion being made. I do not think that was backtracking, and I did not think that the motion was inappropriate either. I did not abandon my position as a member of the subcommittee. It took a lot of hard work to come up with that particular agreement. However, there were some obvious concerns when we began to debate it. Thus came the motion.

We all know that it is going to the House leaders and to the whips. It is only a recommendation to those parties. With much consideration given, with a bit of discussion with Mrs Marland, Ms Poole and the three House leaders involved in order to get on with the business at hand, I am prepared to withdraw the motion. However, we want it clear to all those members who are not quite sure or comfortable that our original recommendation will be subject to negotiation.

So that it is clear to everybody and on the record, I withdraw the motion, and of course we will sit and wait for the final directives based on the decisions of the whips and the three House leaders.

The Chair: I think the procedure would be here that I need Ms Poole to withdraw her motion to put the question, then Mr Abel to withdraw his motion to table. Is that suitable to the committee?

Mrs Marland: I think we need unanimous consent to do that.

Clerk of the Committee: No.

Ms Poole: I withdraw my motion, Mr Chair.

Mr Abel: Mr Chair, I withdraw my motion.

The Chair: Fine. Now we are back to adopting the subcommittee's report.

Mrs Y. O'Neill: What a wonderful afternoon.

The Chair: Would someone move the adoption of the report from the subcommittee with the appropriate amendment?

Mr Abel: I will.

The Chair: Mr Abel has moved—

Mrs Marland: I want to hear him speak because there is nothing on the Hansard right now.

Mr Abel: I thought I did speak. I move that we adopt the subcommittee's report, as amended.

Mrs Marland: I see.

The Chair: Mrs Marland, you can have the floor.

Mrs Marland: Thank you. Can I be clear then that the subcommittee report that Mr Abel is moving is the one that is identified over your signature on a letter to the government House leader on December 3, 1991, with the addition that it is understood that the request for three weeks during the adjournment will be negotiated by the House leaders and whips. Is that correct?

The Chair: That is correct.

Mrs Marland: Thank you, Mr Chairman.

Motion agreed to.

The Chair: That was easy.

Ms Poole: And unanimous, Mr Chair.

Mr Mammoliti: Mr Chairman, may I make a comment?

The Chair: Yes.

Interjection: No.

Mr Turnbull: Do not do it to yourself again.

Mr Mammoliti: I think it is worth while. I am sure that you will want to hear this. We have learned a valuable lesson here. This is a comment. If this should happen again perhaps it may be in our best interest to take a 10-minute break and look for the House leaders instead of our calling each other names and going crazy all afternoon. I was willing to put it down as a motion. Just a suggestion: In the future, let's think before we start calling each other names.

The Chair: Thank you, Mr Mammoliti.

Mr Abel: I would just like to make one short comment. I do realize it was a very trying afternoon. We finally did come to an agreement. But the reason we came to this agreement and got this matter ironed out is due to the co-operation of Ms Poole and Mrs Marland. I just want to show them my appreciation by saying, thank you both for helping us get through this mess.

Mr Winninger: What about Mr Winninger? He courted the disaster in the first place.

The Chair: Thank you, Mr Abel. Mrs Poole.

Mr Turnbull: I would like to thank my parents.

The Chair: Order.

Ms Poole: On behalf of the Liberal caucus, I would like to thank Mr Abel for trying to facilitate this and I think we should give Christmas greetings at this time when we have all this goodwill.

Mr Turnbull: What a love-in.

Mrs Y. O'Neill: This is silly.

The Chair: Thank you. Let's return to the clause-by-clause review of the bill. I believe we are on subsection 13(4) and Mrs Marland has the floor.

Mrs Marland: I am relinquishing the floor to my colleague.

Mr Turnbull: Mr Chair, in view of the hour and the rather time-wasting efforts we have had and the move we have engendered by it, I would suggest that it be more appropriate to adjourn for the night. We have only got 10 more minutes so I move adjournment.

The Chair: Mr Turnbull has moved adjournment. All those in favour?

Mr Turnbull: Excuse me, Mr Chair. If you want to vote on that, I would ask for a 20-minute recess to consult.

The Chair: A 20-minute recess has been requested by Mr Turnbull.

Hon Ms Gigantes: You do that on an adjournment motion?

The Chair: Under the circumstances, the committee will meet again next Thursday morning at 10 o'clock. The committee is adjourned.

The committee adjourned at 1749.

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